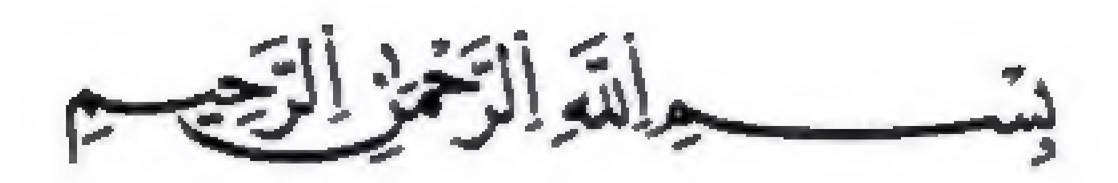
Minhaj al-Sālikīn

The Path of the Wayfarer

Shaykh 'Abd al-Raḥmān b. Nāsir al-Sa'dī

The Islamic Literary Foundation



Path of the Wayfarer

(*Minhāj al-Sālikīn*)

A Treaties on Ḥanbalī *Fiqh*

‘Abd al-Raḥmān b. Nasīr al-Sa‘dī

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The Islamic Literary Foundation

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Foreword I

'Abdullāh b. 'Abd al-'Azīz b. 'Aqīl



In the Name of Allah, the Most Gracious, the Most Merciful

Praise be to Allah, and peace and blessings be upon His slave and trustworthy Messenger who said, "When Allah wishes good for someone, He bestows upon him the understanding of religion," and upon his family and the prosperous and blessed Companions.

Our teacher, 'Abd al-Raḥmān b. Nāṣir al-Sa'dī was one to whom Allah granted understanding of the religion so much so that learning, teaching, and writing about the religion occupied the majority of his time. His work *Minhāj al-Sālikīn wa Tawḍīḥ al-Fiqh fī al-Dīn* is the most important of all his works on Islamic *fiqh*. Though the book is brief in words, it comprehensively covers all the major themes.

Imām al-Sa'dī was thoroughly engaged in the work even before putting it in writing, then showed interest in it while compiling it, and being pleased with it after its publication. He would praise this book before his students, and encourage them to memorize, learn, and teach it.

He wrote a letter to me concerning this book on the 13th of Muharram, 1360 AH along with a copy of the book while I was in Abū 'Arīsh, working there as a judge. In this letter he wrote the following, "I have kept it brief, and thus it is the briefest of all the summaries

of *fiqh* works that you know of including, *Mukhtaṣar al-Muqni'*, *'Umdah*, and *Akhṣar al-Mukhtaṣarāt*; in size it is smaller than all of them. Each chapter is confined to only that which is necessary to be mentioned. Despite that, it is very clear and covers all the arguments....." See *al-Ajwibah al-Nāfi'ah*, pp 90-96.

The following are the advantages of the book: It limits itself to the issues that frequently occur and people are often in need off. It offers the evidence [for the opinions] without going into a length [discussion about them]; rather, at times the author keeps the issue limited to the text of the *ḥadīth* regarding it, thereby making the *ḥadīth* itself the proof for which the argument is sought and the argument required. In short, what the book contains is more than what it shows.

Several editions of the book have been printed, but no edition can be declared pure of any mistakes, shortcomings, and misplacement of the text.

That is why Muhammad b. 'Abd al-'Azīz Al-Khuḍairī, lecturer from the Qur'anic Studies Department in the Teachers College in Riyadh drew his attention to the publication and dissemination of this work. He published it after comparing it with two manuscripts; one of which was written by the hand of the author himself.

Thus, this edition is the soundest of all the editions of this book. Besides it is also characterized by the quality of the printing, characters, pages, and binding. There are punctuation marks, citation of the Qur'anic verses and the *ḥadīths* of the Prophet, explanation of some of the ambiguous words with their diacritical marks, as well as the introduction of a numbering system for the issues discussed. Every issue is introduced in a new numbered paragraph, thereby highlighting the issue so that a person can easily get to it. The issues discussed number six hundred and seventy nine.

Additionally, the preferences and views of the Shaykh have been put in the footnotes from his other works, regardless if the notes added something to the book, elaborated on its points, or amended something in it.

Thus, the researcher has served this book, its author, and the readers, and has earned for himself a great reward, Allah willing. It has been related that the Prophet said, "Allah will make three men enter Paradise for a single arrow [shot in His cause]: the one who makes it, the one who shot it, and the one who passed it to him, thereby helping him. It was narrated by Abū Dāwūd, Tirmidhī, and others.

Hence, it is my advice to my brothers and my students to give

importance to this book, and to memorize it. This is because it is considered a summary of all summaries. All capacity to do acts of righteousness come from Allah, alone. Allah's blessing and peace be upon our Prophet Muhammad and his family.

'Abdullāh b. 'Abd al-'Azīz b. 'Aqīl
Ex-President of the Permanent Commission
of the Supreme Judicial Council

Foreword II

'Abdullāh b. 'Abd al-Raḥmān al-Bassam



In the Name of Allah, the Most Gracious, the Most Merciful

All gratitude is solely due to Allah, who grants understanding of His religion to whomever He wills. Peace and blessings be upon the one whom Allah sent as mercy for all the worlds, as an illuminating lamp for the travelers, and [may the blessings be] upon his family and his prosperous and blessed Companions.

This is an introduction to this useful treaties entitled *Minhaj al-Sālikīn*. We shall speak about two things: 1) the book, and 2) the research done on it.

Regarding the book, I will like to share a story about its inception and production. In 1359 AH, a student passing the elementary school in the city of 'Unayzah could not find a middle school or an academic institute [to attend]. Therefore, the highest degree one could obtain in that center was an elementary degree. The majority of the young men in that area would have liked to continue their studies, but at that stage they were in that phase of their life that it was not good to go away from their family to a bigger city in the Kingdom.

At the same time, in 1359 AH the construction of the Public Library in 'Unayzah, may Allah protect it, was complete. Our Shaykh, 'Abd al-Rahmān al-Nāṣir al-Sa'dī, may Allah shower His mercy upon him,

intended to initiate higher studies for his students, who could access to the full resources of the library. He asked Shaykh Muhammad b. 'Abd al Azīz al Mutawwi' and Shaykh 'Alī al-Ḥamd al-Ṣāliḥī to teach these young students in the library during the time when he himself was not delivering lectures to his students. If both the classes coincided then the youngsters would be taught in one of the corners of the Central Mosque The lectures for these young students revolved about *tawhīd*, *ḥadīth*, *fiqh*, and grammar.

Tawḥīd was taught from *Thalath al-'Uṣūl*, and the like. *Ḥadīth* was taught from *al-Arba'īn al Nawawī*. Grammar was taught from *al-Ājrūmiyyah*. However, there was a hurdle in teaching any of the summarized manuals of *fiqh* from the Hanbalī School to these beginner [students]. The reason for this was two folds:

1. The summarized *fiqh* of the Ḥanbalī School did not go beyond the most famous views according to the School of Thought, while some of those views have been abandoned as there are sounder views on those issues that are ascribed to the other Schools of Thought.
2. The available summarized works comprised of complex texts that offered difficulty to the beginner [students] to access the intended meanings of those passages, to understand them completely, and to retain them.

It was for this reason that our Shaykh, may Allah be merciful to him, authored this short but beneficial work. In it he offers a single view of the School on an issue, regardless of the fact that it is in accordance with the famous view of the Ḥanbalīs or that of another School. These expressed views stand out from the other views because of the soundness and rationale behind their rulings. However, the expressed view does not stray from the views of one of the other three Schools of Thought.

This summarized [*fiqh*] has the following important distinctions:

1. Ease of the text and clarity. This trait of the book brings the meaning closer to the words used, and simplifies the text for the reader.
2. Its sentences and text have been taken from or are based on the Qur'an and the sound *ḥadīths*. Thus, the sentences produced contain both the ruling and the arguments, and guarantees

purity from erroneous words and meanings.

3. The author does not restrict himself to the famous views of the School; rather, he has chosen the views that are the soundest and can be found in any or all of the other three Schools.
4. The author confined himself to the most important issues and rulings that are relevant to the worship and normal practice of the believers.
5. The author wrote this book for the beginner [student]. He had his senior student, Muhammad b. 'Abd al-'Azīz, teach it and discuss it with his students. If any word or expression needed to be clarified or changed, then he would refer it to his teacher, the author. This method caused the book to grow and be well researched; sound in meaning and in its words.

As for the research done on the book, then I have the following to say concerning it: The researcher, Muhammad b. 'Abd al-'Azīz al Khuḍairī, may Allah protect him, provided a great service to the beginners of *fiqh* through his work on this book. He has brought it to light in this beautiful form; the polished garment with which he has adorned it is made up of the following:

1. The author did not furnish any references for the *ḥadīths* quoted in the work, as he considered the ease and comfort for the young students who would memorize it. The researcher, however, took up the task to furnish the Qur'anic and *ḥadīths* references, thus relieving the student of the burdensome task of doing the research to find the references. He has also placed the quoted text and traditions in a way that the person who follows them would not deviate.
2. The researcher offered some annotations, either in order to complement a theme or to specify a sentence in the text. In the majority of these annotations, he has relied on the other works of the author, while in a few cases he has used other sources. Thus, he has complemented the work of the author from the author's own works and from his own knowledge.
3. The present research has placed the entire work in a proper order and sequence. Thus, he has done a service to the readers like that of a teacher to his students, or a commentator to a speech. This way he has made the themes easier and made more accessible that which was difficult.

Due to all this, I advise those that have assigned themselves to teaching this book to teach it to the appropriate classes. I also advise the students to make this book a stair towards their study of *fiqh* and make it an entry point before they tread on the major works [in this field]. Allah alone is the Bestower of all capacities to perform obedient actions. Peace and blessing upon our Prophet Muhammad, and upon his family and Companions.

'Abdullāh b. 'Abd al-Raḥmān al-Bassam
Member of the Council of Senior Scholars
04/25/1421 AH

Preface

بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

In the Name of Allah, the Most Gracious, the Most Merciful

All praise is for Allah, the One who legislated upon us a law that is perfect and complete, and may His blessing be upon Prophet Muhammad. The subject of Islamic jurisprudence (*fiqh*) is a fundamental science that Muslims must have knowledge of. Humanity has been created to worship their Creator, and it is through this science that they are able to attain the knowledge of what is required of them in terms of that which is permissible and that which is impermissible. *Fiqh* refers to the study of the different actions and statements addressed by Islam and their rulings.

The purpose of this book is to acquaint the reader with the *fiqh* rulings on matters that pertain to their religion. The book has been written by the author in a simplified manner, choosing only the opinions that he deemed to be the strongest along with their evidences. It is an excellent book for a beginner as well as those who are more advanced in the subject.

'Abd ar-Raḥmān b. Nasīr al-Sa'dī was born in the city of 'Unayzah, Kingdom of Saudi Arabia, in the year 1307 AH/1885 CE to Ḥamad an-Nasīr al-Sa'dī and Faṭimāh bint 'Abdullah al-'Uthaymīn. His father was the *imām* of Masjid al-Mas'wak'fa. When he was four years old his mother

passed away and when he was seven his father passed away, and he grew up as an orphan under the care of his brother. He memorized the Qur'an before the age of 11 and mastered its recitation under the Qur'anic teacher Sulayman ad-Da'miji.

Afterwards, he studied under the scholars of his city, among whom was Shaykh Ibrāhīm b. Ḥamād al-Jāsir (1241-1338 AH). Shaykh Ibrāhīm had studied in Shām (Greater Syria) and in Iraq, where he lived for some years. Al-Sa'dī studied under him for the duration of his judicial term from 1318-1324 AH. Another teacher of his was Shaykh Salīh b. 'Uthmān al-Qa'dī (1281 1351 AH), who studied in the Hijaz region and in Egypt for 17 years, until returning back to 'Unayzah. Shaykh Salīh took over the judicial duties from Shaykh Ibrāhīm b. Jāsir in 1324 AH, and he held the post for the next 27 years until his death. Al-Sa'dī remained close to Shaykh Salīh and studied under him until the latter's death.

Another scholar under whom the young al-Sa'dī studied was the senior scholar of *ḥadīth*, Shaykh 'Alī b. Nasīr Abū Wadī' (1273-1361 AH) who had traveled to India to acquire knowledge. He studied there under the scholar 'Allamah Nadīr Hussein and under the well-known Indian scholar Allamah Sadīq Hasan Khan al-Qanujī. From Shaykh 'Alī, al-Sa'dī earned '*ijāza* (certificate to teach) in *riwayāt* (*ḥadīth* narrations).

Shaykh al-Sa'dī also studied with Shaykh Muhammad Amīn ash-Shanqitī (1289-1351 AH) who was originally from Mauritania, but traveled through the Islamic world and even fought against the English in Basra. Shaykh ash-Shanqitī arrived in 'Unayzah and remained there for 4 years during which time al-Sa'dī studied under him. Others scholars under whom al-Sa'dī studied included Shaykh Muhammad b. 'Abd al-Karīm al-Shubul, Shaykh 'Abdullah b. 'Ayada, Shaykh Muhammad b. 'Abd al-'Azīz b. Manī', Shaykh Ibrāhīm b. Salīh b. 'Eesa, as well as many others. Al-Sa'dī studied under these great scholars, learning from the the various fields of Islamic knowledge, and benefited immensely from them. Under their tutelage, he studied the books of Shaykh al-Islam ibn Taymiyyah and of his student ibn al-Qayyum. Allah opened within him a desire to learn and gifted him with immense knowledge, which can be attested to by anyone who reads the works that he authored.

Shaykh al-Sa'dī was well known for his knowledge, piety, and humility. Shaykh Muhammad b. Ṣāliḥ al-'Uthaymīn (d. 1421 AH/ 2001 CE), one of his students who became a great scholar in his own right, said, regarding him, "[He] was exceptional in regards to his excellent conduct and his humility to the young and the old. He was a person of worship, asceticism, and scrupulousness. He was a scholar of Islamic

Jurisprudence (*fiqh*) and Prophetic narrations (*ḥadīth*), and was an exhorter, speaker, linguist, and author. He combined within himself a slew of Islamic sciences."

The former Grand Mufti of Saudi Arabia, Shaykh 'Abd al-'Aziz b. Bāz (d. 1419 AH/ 1999 CE) said, regarding him, "He had a great concern for *fiqh*. [Whenever] there was an issue involving a difference of opinion, he would pay close attention to the stronger one along with its respective evidences. He would hardly speak unless there was benefit in it. I sat with him on more than one occasion in Riyadh and Makkah and he would only speak in issues of knowledge. He was humble and his character was excellent, and whoever reads his works will realize his virtue, knowledge, and concern for textual evidences. May Allah bestow His vast mercy on him."

Shaykh al-Sa'dī passed away in 'Unayzah in 1376 AH/1956 CE leaving behindawealthofknowledge.Heauthorednumerousbooksandtreatieson various Islamic sciences. One of his most famous works was on *tafsīr* titled *Taysīr al-Karīm ar-Raḥmān fī Tafsīr Kalām al-Mannān* (The Facility of the Most Noble, the Most Beneficent in the Commentary of the Words of the Most Benevolent) better known as *Tafsīr as-Sa'dī*, which we had the honor of translating and is now being published. He was also an amazing scholar in the field of Islamic Jurisprudence and wrote many works on the subject for both the begginer and the advance learner. One of his other great works is *Minhāj al-Salikīn* (*Path of the Wayfarer*), which has been titled appropriately as a guidebook for those seeking to study Ḥanbalī *fiqh* .

For purposes of this book, the following methodology has been applied. Glorification and invocation after certain names have not been used in order to maintain the flow of the text as much as possible. It is assumed that the Muslim reader will mentally insert these invocations after the names.

I would like to take the opportunity to express our praise and gratitude to Allah for giving me the opportunity to work on this important project. A project of this scope can never be the by-product of only one individual, so I would like to express my deepest thanks and gratitude to all those who were involved in it. I would also like to mention that the majority of the annotations that are found in the work have been translated from the Arabic version that was edited by Muhammad b. Abd al-'Azīz Al-Khuḍairī. However, not all of his footnotes have been translated; only those that were deemed to offer additional benefit to the advance reader, were translated and inserted.

I also did not follow the format and layout that was employed by him in his Arabic version; rather, a layout system that I felt would offer the most benefit to the English reader was instead employed. Certain Chapter were moved around to give a better flow of the text for the reader. These changes have been clearly marked with an annotation. Those footnotes that are from me have been labeled with a [TN] at the end.

I ask Allah to bless all of those who were involved with this project and to give them a share in all the rewards that He will bestow on this project. I would like to take the opportunity to dedicate this work to my baby daughter, whose constant smiles at me while I worked on this project are forever engrained as a loving memory in my heart.

S. 'Abd al-Hamid

Introduction

بِسۡمِ ٱللَّهِ ٱلرَّحۡمَٰنِ ٱلرَّحِيمِ

In the Name of Allah, the Most Gracious, the Most Merciful

All praises are due to Allah; We praise him, seek His help and His forgiveness. We seek refuge in Allah from the evil of ourselves and our actions. Whomever Allah guides, there is none that can misguide him, and whomever Allah misguides there is none that can guide him to the straight path. I bear witness that there is no deity worthy of worship except Allah, and I bear witness that Muhammad is his last and final Messenger.

This is an abridged book on *fiqh* in which I compiled the fundamental Islamic principles based upon the understanding of Islamic jurisprudence and their evidences, since knowledge is to apprehend the truth with its evidence. *Fiqh* is defined as knowledge of the subsidiary legislative rulings with their evidence from the Book (i.e., the Qur'an) and the Sunnah, the consensus of the scholars, and correct *qiyās* (juristic reasoning/analogy). I restricted this book to the widely known proofs out of fear of extending its length. If there is a difference of opinion in a matter, I chose the strongest view according to me, following the legislative evidences.

The Five Rulings[1]:

1. *Wājib* (واجب): It is that for which the committer is rewarded and the abstainer is punished.[2]
2. *Ḥarām* (حرام): It is the opposite of *wājib*.
3. *Masnūn* (مسنون): It is that for which the committer is rewarded and the abstainer is not punished.
4. *Makrūh* (مكروه): It is the opposite of *masnūn*.
5. *Mubāḥ* (مباح): It is that for which committing or abstaining from it are equal.

It is obligatory on the one who is responsible for his own actions to have knowledge from *fiqh* of that which is required from him concerning the acts of worship, dealings, and transactions. The Prophet said,

> مَنْ يُرِدِ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ
>
> "For whomever Allah wants good, He gives him understanding of the religion."[3]

---

[1] The author defines the five rulings by describing their legal position. The jurists call it a descriptive definition. Customarily they make these terms known by offering a proper definition, which is to explain the reality of a thing. They have defined these terms as:

- *Wājib* is that which the lawgiver has strictly commanded to accomplish.
- *Mandub (masnūn)* is that which the lawgiver desires to be accomplished but not as mandatory.
- *Muḥram* is that which the lawgiver strictly prohibits.
- *Makrūh* is that which is prohibited by the lawgiver but not strictly
- *Mubāḥ* is that which in itself is neither forbidden nor required.

[2] His words, "That for which the committer is rewarded," does not mean that the person who performs such a deed as a religious obligation is always rewarded; rather, he is rewarded only when he performs it with a true intention to follow the law Thus, it can be paraphrased as follows, "That which earns reward for the one who does it with the true intention to follow the Lawgiver." This is because if someone carries out a religious obligation without an intention to carry it as a religious duty, then he is not rewarded. An example is the showing off by a hypocrite. Similarly, his words, "The abstainer is punished," are also not general; rather, they imply that the one who ignores doing it deserves a punishment. This is because we know that a believer sometimes ignores an obligation, but is still not punished. This conclusion is based on the following divine verse, "Allah does not forgive the associating of partners to Him, but He forgives other sins to whomever He wills." (Q. 4:116) All other definitions should also be seen in this light.

[3] Bukhārī, 1/164; Muslim, no. 1037

Book of Purification
(*Kitāb al-Ṭahārah*)

The Messenger of Allah said,

بُنِيَ الإِسْلامُ عَلَى خَمْسٍ: شَهَادَةِ أَنْ لاَ إِلَهَ إِلاَّ اللهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللهِ ، وَإِقَامِ الصَّلاَةِ ، وَإِيتَاءِ الزَّكَاةِ ، وَحَجِّ الْبَيْتِ ، وَصَوْمِ رَمَضَانَ.

> "Islam is build on five [principles]: To bear witness that there is no deity worthy of worship except Allah and that Muhammad is the Messenger of Allah, to offer *ṣalāh*, to pay *zakāh*, to make *ḥajj* to the House, and to fast during [the month of] Ramaḍan."[4]

To bear witness that there is no deity worthy of worship except Allah has to do with the servants' acknowledgement, creed, and commitment that Lordship and worship are not [bestowed] on anything other than Allah, the One who is without partners. It is obligatory upon the worshiper to have sincerity of the entire religion only for Allah. His acts of worship, the internal and the external, are all solely for Allah, and he should not associate anything with Him in all aspects of the religion. This is the religious foundation of all the Messengers and their followers. Allah says,

---

[4] Bukhārī, 1/49; Muslim, no. 16.

﴿وَمَآ أَرۡسَلۡنَا مِن قَبۡلِكَ مِن رَّسُولٍ إِلَّا نُوحِيٓ إِلَيۡهِ أَنَّهُۥ لَآ إِلَٰهَ إِلَّآ أَنَا۠ فَٱعۡبُدُونِ﴾

"We have not sent any Messengers before you except that we revealed to them that none has the right to be worshiped but I, so worship Me!" (Q, 21:25)

The attestation that Muhammad is the Messenger of Allah entails that the worshiper believes that Allah sent him to the entire creation as a bearer of glad tidings and a warner, calling them to believe in Allah alone and to His obedience. [A person must] believe in what the Prophet informed off, surrender to his commands and avoid his prohibitions, and believe that no happiness or welfare can be obtained in this world or the next except by having faith in him and obeying him. It is obligatory that the love which [the servant] has for the Prophet takes precedence over the love for himself, his children, and all of humanity. We must also believe that Allah aided the Prophet with miracles as an affidavit of his message, and that He embodied him with good and high characteristics that are embodied in this religion from guidance, mercy, and truth, and involves both the worldly and religious interest. Additionally, we must believe that the greatest sign is the Glorious Qur'an, along with that which it contains of truth, commandments, and prohibitions. Allah truly knows best.

Types of Water

As for *ṣalāh* (prayer), it has certain conditions that precede it, such as *ṭaharāh* (purification). The Prophet said,

لَا يَقْبَلُ اللَّهُ صَلَاةً بِغَيْرِ طُهُورٍ.

"Allah does not accept a *ṣalāh* without purification."[5]

Therefore, whoever does not perform purification from minor and major ritual impurity will have his prayer rendered null and void.

Ṭahārah is of two types: The first type is purification by water, which

[5] Muslim, no. 244, however it contains the words, "*Ṣalāh* is not accepted without purification." Bukhārī relates it in his introduction to the Chapter: Allah Does not Accept the Prayer without Purification. Al-Ḥāfiẓ b. Hajar says, "This *hadith* has been transmitted through a number of *isnāds* (chains of narrators) but none of them fulfill the terms of acceptance laid out by Imām Bukhārī. This is why he mentioned it only in his heading and in the Chapter he records the *hadith*, "The *ṣalāh* of a person who suffers from ritual impurity is not valid unless he makes a new ablution." See al-Fatḥ al-Bārī, 1/234.

is the primary type.[6] Thus, any water that falls from the sky or springs from the earth is a purifier (*ṭahūr*) which purifies from ritual impurities and filth, even if its color, taste, or smell changes through the mixing with another pure substance. The Messenger of Allah said,

إِنَّ ٱلْمَاءَ طَهُورٌ لَا يُنَجِّسُهُ شَيْءٌ.

"Water is pure and nothing can make it impure."[7]

However, if any of its characteristics change, due to an [addition of an] impure substance, then it undoubtedly becomes impure and it becomes obligatory to avoid it.[8] The essential ruling of a thing is that it is pure and permissible. Therefore, if a Muslim is in doubt as to the purity of some water, clothing,[9] a patch of ground, or some other thing, then they are pure. If a person knows for certain that he was in a state of ritual purity, but is in doubt as to whether he remained in that state or has exited it, then he is still [considered] to be in a state of ritual purification. The Prophet said about an individual who believes that he passed wind during his prayer,

لَا يَنْصَرِفْ حَتَّى يَسْمَعَ صَوْتًا أَوْ يَجِدَ رِيحًا.

"He should not leave his *ṣalāh* until he hears a sound or smells it."[10]

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[6] The second form of *ṭahārah*, which is purity gained through *tayammum*, will be discussed later. [TN]

[7] Reported by the Compilers of the *Sunan*, and it is authentic. Abū Dāwūd, no. 66 & 67; Tirmidhī, no. 66; al-Nisā'ī, 1/174; Aḥmad, 3/16, 31, 86; ibn Abī Shaybah, no. 1505.

[8] The Shaykh says elsewhere, "The correct view is that water is of two types: 1) pure and it purifies other things, and 2) impure and it makes things impure. The line of difference between the two types is the change in any of its pure attributes by the mixture of an impurity or filth within it. If an impure or filthy thing mixes with the water and alters its color, smell, taste, then the affected water becomes impure and whatever it touches also becomes impure. There is no difference between the degree of change [that occurs], and it would become impure regardless of the change being little or a lot, whether the change in color, smell, or taste occurs in the part that is being used for purification or other, and whether the change is affected through mixing or not. As for water in which an impurity is mixed, but none of its attributes are changed, then it is pure. See, *al-Mukhtārāt al-Jalliyyah*, pg. 7.

[9] The Shaykh says elsewhere, "The correct opinion concerning the confusion between pure and impure clothing, or prohibited and neutral clothing is that extreme care and effort should be made to distinguish one from the other, and the *ṣalāh* should be offered in that cloth [which is deemed pure]. See, *al-Mukhtārāt al-Jalliyyah*, pg. 7.

[10] Agreed upon by Bukhārī, 1/237 and Muslim, no. 361.

[Containers and] Utensils

All utensils, plates, dishes, etc., are permissible to use except those which are made from gold and silver, or either of them, except for a small amount of silver for specific needs.[11] The Prophet said,

> لَا تَشْرَبُوا فِي آنِيَةِ الذَّهَبِ وَالْفِضَّةِ، وَلَا تَأْكُلُوا فِي صِحَافِهَا فَإِنَّهَا لَهُمْ فِي الدُّنْيَا، وَلَكُمْ فِي الْآخِرَةِ.
>
> "Do not drink from gold or silver utensils, and do not eat from its plates.[12] They are indeed for them [i.e., the disbelievers] in this life and for us in the hereafter."[13]

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[11] The Shaykh says elsewhere, "The sound distinctions (*al-furūq al-ṣaḥīḥah*) includes the use of gold and silver. There are three uses of these metals:

1. They are used in crockery and other similar things, and they are not permissible for both men and women.
2. They are used as ornaments, which is permissible for women but not men.
3. They are used in armory and weaponry, and is permissible for men [as well as women]."

See, *al-Qawā'id wa al-Furūq*, pg. 155.

[12] The version in *Sunan al-Nisā'ī* uses the words *ṣiḥāfuhumā*, and *ṣafḥah* is a pot that looks like a vast dish.

[13] Agreed upon by Bukhārī, 9/554 and Muslim, no. 2067.

-Chapter-
Purifying the Private Parts (Istinjā') and the Etiquettes of Answering the Call of Nature

If one enters the bathroom he should enter with the left foot first and say,

> بِسْمِ اللَّهِ. اَللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الْخُبُثِ وَالْخَبَائِثِ.
>
> "*Bismillah,*[14] *Allahumma innī A'ūdhu bika min al-kubuthi wa'l-khaba'ith* (In the Name of Allah; Allah I seek refuge with You from the unclean and the filth.)"[15]

When he exits [the bathroom], he does so with his right foot and says,

> غُفْرَانَكَ ، اَلْحَمْدُ لِلَّهِ الَّذِي أَذْهَبَ عَنِّي الْأَذَى وَعَافَانِي.
>
> "*Ghufrānak, al-ḥamdulillāh al-ladhī adhhaba 'annī al-adha wa 'āfānī* (You forgive.[16] All praise be to Allah, Who removed from me that which was harmful and restored me to soundness.)"[17]

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[14] This is based on the *hadith* of 'Alī in which he reports that the Prophet said, "The only thing that screens the private parts of a person from a jinn, when he defecates, is his saying *bismillah* (in the Name of Allah)." This narration has been recorded by Tirmidhī, no. 606, and ibn Majah, no. 297 Tirmidhī adds, "This is a *gharib* (strange) *ḥadīth*, and we do not know of it being transmitted through any other chain of narrators. Besides its *isnād* is not that strong. A few things have been attributed to the Prophet by Anas." 'Abd al Qādir al Arn'ūṭ says in his *Jāmi' al-Uṣul*, 4/316, "At times a narration becomes strong and sound (*ṣaḥīḥ*) when corroborated by other *ḥadiths*."

[15] Bukhārī, 1/242 and Muslim, no. 375. *Al-khabath* is a male jinn, and *al-khubth* refers to evil, which is therefore more general. *Al-khabāith*, as a derivative of the former, refers to female jinns, and as a derivative of the latter, refers to evil actions.

[16] *Ghufrānak* is reported by Abū Dāwud, no. 30; al Tirmidhī, no. 7, and he called it *ḥasan gharib*; Ibn Mājah, no. 300; Aḥmad, 6/155; al-Dārmi, 1/174; al-Ḥākim, 1/158 and he called it authentic.

[17] Ibn Mājah, no. 301, but it is weak (*da'if*) do to the presence of Ismā'īl b. Muslim al-Makki in the chain of narrators; he is considered weak. Al-Būṣayrī says, "The experts in the science of *ḥadith* are unanimously agreed that this is a weak narration. The soundness of the wording of this *ḥadith* is not established." Abū al-Ḥasan al Sanadī says in his annotation to ibn Majah, "A similar narration has been mentioned by the author in his discussion on the principles." Ibn Al-Sinni (pg. 21) has also narrated it, attributing it to Abū Dharr. Ḥāfiẓ b. Ḥajar has discussed this *ḥadith* at length, when he mentioned it in his collection of the traditions containing *adhkār*.

When sitting [to relieve himself], he should lean on his left leg and set his right leg upright.[18] He should cover himself with a wall or something similar. When answering the call of nature in an open area, he should go away as far as possible. It is not permissible for a person to relieve himself in the [following areas]:

1. roadways,
2. places where people sit,
3. under fruit bearing trees, or
4. anyplace that can cause people harm.

He should neither face the Qiblah nor place his back to it while relieving himself. The Prophet said,

> إِذَا أَتَيْتُمُ الْغَائِطَ فَلَا تَسْتَقْبِلُوا الْقِبْلَةَ بِغَائِطٍ وَلَا بَوْلٍ، وَلَا تَسْتَدْبِرُوهَا، وَلَكِنْ شَرِّقُوا أَوْ غَرِّبُوا.
>
> "When you defecate, neither face the Qiblah nor turn your backs towards it, but face towards the east or the west."[19]

When he finishes relieving himself,[20] he should:

1. Perform *istijmār*[21] with three stones or any other similar matter that cleans the area.
2. Perform *istinjā* with water.

It is sufficient to restrict oneself to one of them only. However, *istijmār* is not to be performed with dung or bones, since the Prophet forbade using them,[22] and anything that is given sanctity.

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[18] There is a similar narration recorded by al-Bayhiqī in his *Sunan*, 1/96, through a weak chain of narrators as has been clarified by Ibn Ḥajar in *al-Bulūgh*, pg. 215, as well as in *al-Takhlīṣ*, 1/107. Imām Nawawī has termed it weak in his *al-Majmū'*, 2/92. However, it may be sound on a secondary basis. See, *Tawḍī' al-Aḥkām 'ala Bulugh al-Marām* by Shaykh al-Bassām, 1/285.

[19] Bukhārī, 1/498; Muslim, no. 264. The Shaykh says elsewhere, "Based on this *ḥadīth*, the correct opinion would be that that facing the sun and the moon while relieving oneself is not considered disliked." See, *al Mukhtārāt al-Jalliyyah*, pg. 11.

[20] The Shaykh says elsewhere, "The correct opinion in this regard is that neither *masḥ* (wiping) nor wrenching is recommended as the tradition that lends support to this practice is not sound, and it is the whispering of the whisperer." See *al-Mukhtārāt al-Jalliyyah*, pg. 11.

[21] Removal of filth from the anus.

[22] See Bukhārī, 1/255; Muslim, no. 263.

Removing Impurities and Impure Substances

It is sufficient to wash the impurities of the body and the clothing, [such as] stains or anything similar, until the impure substance vanishes from the contaminated area.[23] This is because the Law-Giver has not stipulated a certain number of washing to remove the impurity, except for the impurity of a dog, which stipluates that the contaminated area be washed seven times, with one of them being with dirt, as stated in an agreed upon *ḥadīth*.[24]

Concerning physically impure things, they are:

1. Human urine
2. Human feces
3. Blood, though a slight amount of blood is pardoned. For example blood that is shed from an edible animal, not including that which remains in the meat or the veins, since it is pure.
4. Urine and feces of every animal whose consumption is forbidden.[25]
5. Every carnivorous animal is impure.
6. The dead, except for human corpses, animals of liquid substance, fish, and locusts which are all pure.

Allah says,

﴿حُرِّمَتْ عَلَيْكُمُ ٱلْمَيْتَةُ وَٱلدَّمُ وَلَحْمُ ٱلْخِنزِيرِ وَمَآ أُهِلَّ لِغَيْرِ ٱللَّهِ بِهِۦ وَٱلْمُنْخَنِقَةُ وَٱلْمَوْقُوذَةُ
وَٱلْمُتَرَدِّيَةُ وَٱلنَّطِيحَةُ وَمَآ أَكَلَ ٱلسَّبُعُ إِلَّا مَا ذَكَّيْتُمْ وَمَا ذُبِحَ عَلَى ٱلنُّصُبِ وَأَن تَسْتَقْسِمُوا۟ بِٱلْأَزْلَٰمِ ۚ
ذَٰلِكُمْ فِسْقٌ ۗ ٱلْيَوْمَ يَئِسَ ٱلَّذِينَ كَفَرُوا۟ مِن دِينِكُمْ فَلَا تَخْشَوْهُمْ وَٱخْشَوْنِ ۚ ٱلْيَوْمَ أَكْمَلْتُ لَكُمْ
دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِى وَرَضِيتُ لَكُمُ ٱلْإِسْلَٰمَ دِينًا ۚ فَمَنِ ٱضْطُرَّ فِى مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ

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[23] The Shaykh clarified this elsewhere, "When the impurity is removed by any purifying agent, such as water or another purifier, then the thing becomes pure. Similarly, when the impure qualities are removed and replaced by pure qualities, then the thing becomes pure. Based on this a person can purify impure oils through known means, so that the impurities are removed." See *al-Mukhtārāt al-Jalliyyah*, pg. 22.

[24] Bukhārī, 1/274; Muslim, no. 279.

[25] The Shaykh clarified this elsewhere, "Mules and donkeys are pure when alive, just as cats are. Thus, the hair, saliva, and sweat of the donkey and the mule would be pure. The Prophet would often ride on both, and he never washed anything that struck him from these two beasts. He also never commanded the believers to avoid these animals. As for the flesh of these two animals, then it is impure." See *al-Mukhtārāt al-Jalliyyah*, pg. 22.

لِّإِثْمٍ فَإِنَّ ٱللَّهَ غَفُورٌ رَّحِيمٌ ﴿٣﴾

Forbidden to you are dead animals, blood, the flesh of swine, [an animal] over which any name other than Allah's has been invoked [before slaughtering], or strangled, or [killed by] a violent blow, or a headlong fall, or gored, or savaged by a beast of prey, unless you are able to slaughter it [before its death], or what is sacrificed on idolatrous altars, and that you seek decision through divining arrows: [all] that is sinful. This day, the disbelievers have lost all hope of your religion, so do not fear them but fear Me. This day, I have perfected your religion for you, completed My blessing upon you, and have chosen for you Islam as your religion. But if anyone is forced by severe hunger, with no inclination to commit sin, [will find that] Allah is Most Forgiving, Most Merciful. (Q. 5:3)

The Messenger of Allah said,

ٱلْمُؤْمِنُ لَا يَنْجُسُ حَيًّا وَلَا مَيِّتًا

"The believer is not impure,[26] [whether] alive or dead."[27]

He also said,

أُحِلَّتْ لَنَا مَيْتَتَانِ وَدَمَانِ ، فَأَمَّا ٱلْمَيْتَتَانِ : فَٱلْجَرَادُ وَٱلْحُوتُ ، وَأَمَّا ٱلدَّمَانِ : فَٱلطِّحَالُ وَٱلْكَبِدُ.

"Permissible for you are two types of dead and two types of blood. As for the two dead they are locust and fish, and as for the two bloods they are the spleen and liver."[28]

As for the feces and urine of animals whose consumption is permissible, then it is pure. As for human semen (*mani*) it is pure because the Prophet would wash the sticky semen and scratch of the dried semen.[29] Concerning the urine of a male infant who has not yet consumed solid foods, it is enough to sprinkle water over it, as the Prophet said,

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[26] Bukhārī, 1/390; Muslim, no. 371.

[27] The phrase, "alive or dead," is recorded by al-Ḥākim in *Mustadrak*, 1/542.

[28] Aḥmad, 2/97; Ibn Mājah, no. 3314; al-Dāraquṭnī, no. 25; al-Bayhaqī, 1/254. Albani called it *ṣaḥīḥ* in *al-Ṣaḥīḥ*, no. 1118.

[29] Bukhārī, 1/332; Muslim, no. 288-290.

يُغْسَلُ مِنْ بَوْلِ الْجَارِيَةِ ، وَيُرَشُّ مِنْ بَوْلِ الْغُلَامِ.

"Wash away the urine of an infant girl and sprinkle water over the urine of an infant boy."[30]

If the impurity is removed, the object become pure and is not affected by the remaining color or order [of that impurity]. This is because the Prophet said to Khawlah bint Yasār regarding menstruation blood,

يَكْفِيكِ الْمَاءُ وَلاَ يَضُرُّكِ أَثَرُهُ.

"Water is sufficient for you [to remove it] and there is no harm in the [remaining] stain."[31]

[30] Abū Dāwud, no. 376 & 377; al-Nisā'i, no. 305; Aḥmad, 1/76, 97, 137; al-Tirmidhī, no. 610, and he called it *ṣahih*; al-Ḥakim, 1/165, and he said it is *ṣahiḥ* according to the conditions of Bukhārī and Muslim. Ibn Ḥajr called it *ṣaḥiḥ* in *al-Fath*, 1/326.

[31] Aḥmad, 2/364, 380; Abū Dāwūd, no. 365; al-Bayhaqi, 2/408. It is *da'īf*; Ibn Ḥajar says in *Bulūgh al-Marām* that its *isnād* (chain) is weak. Albani called its chain *ṣaḥiḥ* in *al-Irwā'*, 1/189.

-Chapter-
Description of *Wuḍu'* (ablution)

Wudu' is performed in the following manner:

1. One makes the *niyyah* (intention) to remove the minor ritual impurity, to make *wuḍu'* for *ṣalah*, or another [worship that requires it]. Intention is a prerequisite for all acts [of worship] including purification or any other act, [as evident from] the saying of the Prophet,

   إِنَّمَا الأَعْمَالُ بِالنِّيَّاتِ وَإِنَّمَا لِكُلِّ امْرِئٍ مَا نَوَى.

   "Actions are by intentions and every man will have what he intends."[32]

2. Afterwards he says, "*Bismillāh* (In the Name of Allah)."
3. He washes his hands three times.
4. He scoops water in both his hands and make *tamaḍmaḍa* (rinsing of the mouth) and *instinshqa* (rinsing of the nose by sniffing and blowing out water) three times.
5. He washes his face three times.
6. He washs his arms up to his elbows three times.[33]
7. He wipes his head, beginning with the forehead and ending with the nape of the neck, and then back to the place he started from, once.
8. He places his index fingers in the passage of his ears and takes his thumbs and wipes behind the ears.[34]

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[32] Bukhārī, 1/9; Muslim, no. 1907.

[33] The Shaykh says elsewhere, "The correct opinion is that it is not desirable for the believer to wash with water more than the required parts of the body. The Almighty has marked the limits by specifically mentioning the elbow and ankles. None of the reporters who transmitted the Prophetic example concerning *wuḍu* have mentioned that the Prophet did this, and encouraged others to do the same." Subsequently, he explains that the following words in the tradition attributed to Abū Hurayrah from the Prophet are in reality the words of the Companion that have been added to the words of the Prophet, "He who can afford among you, let him increase the brightness of his forehead, and that of his hands and feet." See *al-Mukhtārāt*, pg. 14.

[34] The Shaykh explains elsewhere that it is not required to take new water to wipe the ears, as the *ḥadīth* quoted in this respect is not sound. See *al-Mukhtarat*, pg. 15.

9. Finally, he washes his feet with the ankles three times.

This is the complete *wudu'* that the Messenger of Allah performed.

As for the obligatory elements from among these, they include the following:

1. To wash the parts mentioned at least once.
2. To perform them in the sequence that Allah has mentioned,

﴿يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا قُمْتُمْ إِلَى ٱلصَّلَوٰةِ فَٱغْسِلُواْ وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى ٱلْمَرَافِقِ وَٱمْسَحُواْ بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى ٱلْكَعْبَيْنِ﴾

"You who believe, when you intend to offer the *ṣalāh*, wash your faces and your hands up to the elbows, rub your heads, and [wash] your feet up to the ankles." (Q. 5:6)

3. That a conventionally long interval does not occur between the acts in a way that interrupts succession of its acts, and the same applies to any act in which continuation is stipulated.

[Wiping Over the *Khuffs* and Socks]

If a person is wearing *khuffs* (leather socks), or something similar, then he can wipe over them for:[35]

1. One day and one night if he is a resident, and for three days and three nights if he is a traveller.
2. On the condition that he wore them while in a state of ritual purity.
3. They cannot be wiped over except in case of minor ritual impurity. It has been narrated by Anas in a *marfū'* [narration],

[35] The Shaykh clarifies elsewhere that the correct opinion is that if the *khuff* is torn and has patches, which reveal the skin, then the believer can still wipe (*masah*) over them. This is because even after being torn it is still considered as *khuffs* and is thus covered by the generality of the word used in the source text. It is obvious that the *khuffs* of the Companions of the Prophet must have had patches and torn spaces in them. As for the period of relaxation, it begins from the time of the wiping and not from the time of the obligation of the purification. Similarly, the purification is not lost by the believer removing the *khuffs* on which he wiped. Additionally, the purification does not expire when the the relaxation period ends, but continues as long as the purification remains intact. See *al-Mukhtārāt al-Jaliyyah*, pg. 15-7.

recorded by al-Ḥakīm and authenticated by him, that,

> إِذَا تَوَضَّأَ أَحَدُكُمْ وَلَبِسَ خُفَّيْهِ فَلْيَمْسَحْ عَلَيْهِمَا وَلْيُصَلِّ فِيهِمَا ، وَلاَ يَخْلَعْهُمَا إِنْ شَاءَ إِلاَّ مِنْ جَنَابَةٍ
>
> "If anyone makes *wudu'* and wears his *khuffs*, then let him wipe over them, pray in them, and not remove them except for major ritual impurity (*janābah*)."[36]

If the area [to be washed] during *wudu'* is in a cast or a gauze that is covering a wound, and to wash the area can be harmful, then it is sufficient for him to wipe over it with water in case of either minor or major impurity until the wound is healed.[37] The method for wiping over the *khuffs* is to wipe over the majority of their upper part. As for the cast, then the whole part of it is to be wiped.

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[36] Al-Ḥākim: 1/181, who called it *ṣaḥīḥ* according to the conditions of Muslim; al Dāraquṭnī: 1/203; al-Bayhaqī in *al-Sunan*: 1/279. Imām as-Sanani says, "The tradition proves that doing this makes a person ritually pure. The statement is general and does not seem to bind the purification with time. However, it is really specific with time as is clear from the *ḥadīths* of Ṣafwān b. 'Asāl and 'Alī." See *Subul al-Salām*, 1/313.

[37] In the case of a splint, the Shaykh has said elsewhere that it is not necessary that it be applied after purification. This concession is only allowed for the splint that covers the bone that is broken or extends a little further out. However, if it is possible for the person to keep the splint short, then it becomes obligatory on him to do so. See *al-Mukhtārāt al-Jaliyyah*, pg. 16.

-Chapter-
The Nullifiers of *Wuḍu'*

The nullifiers of *wuḍu'* are the following:

1. The exiting of anything from the private parts or the anus [such as the passing of wind, defecation, urination, etc.];
2. loss of a considerable amount of blood and the like;[38]
3. loss of consciousness through sleep or the like;
4. eating camel meat;[39]
5. touching a woman with sexual desire;
6. touching the private parts;
7. washing the deceased;[40]
8. apostasy, which nullifies all deeds.[41]

Allah says,

﴿أَوْ جَآءَ أَحَدٌ مِّنكُم مِّنَ ٱلْغَآئِطِ أَوْ لَٰمَسْتُمُ ٱلنِّسَآءَ﴾

"Or when the call of nature comes to any of you, or you have been in contact with women." (Q, 5:6)

[38] The Shaykh has preferred the opinion that blood, vomit, and similar things do not invalidate *wuḍū*, whether it is in small or large quantity, as there is no explicit binding argument from the sources of the *sharī'ah* for it, and so the actual position of purification remains effective. See *al-Mukhtārāt*, pg. 17.

[39] *Al-Jazūr* means camels. The Shaykh says, "The correct opinion is that eating any part of the camel, including the stomach, heart, guts, etc., invalidates *wuḍū*, as they all are included in the general term of the word camel, both in meaning and by reason. There is no argument or reason to differentiate between the parts of the camel. See *al-Mukhtārāt*, pg. 17 He also said, "The camel is different from the rest of the animals on three grounds. 1) Eating its flesh invalidates *wuḍū*, 2) *ṣalāh* cannot be offered where camels are kept and where they return after an outing, and 3) according to the sound est opinion, they are the basis for calculating the *diyah* (blood money)." See *al-Qawā'id wa al-Furūq*, pg. 118.

[40] The Shaykh said elsewhere, "The view that washing the dead body breaks *wuḍu* is not tenable, because the tradition concerning it relates that this is not sound. As for it being commanded by ibn 'Umar and ibn 'Abbās for the person who washes a dead body, then it does not necessarily entail an absolute command, and therefore does not remove the original status of purity from the person who washes the dead body because he does not do a thing that invalidates the *wuḍū*." See *al-Mukhtārāt al-Jalīiyyah*, pg. 17.

[41] The Shaykh has also included the things that require a bath for purification among the factors that break *wuḍū* See *Nūr al-Baṣā'ir* pg. 12.

Muslim reports that the Messenger of Allah was asked,

أَنَتَوَضَّأُ مِنْ لُحُومِ الْإِبِلِ؟ قَالَ: «نَعَمْ».

> "Do we make ablution after eating camel meat?" He replied, "Yes."[42]

Concerning the *khuffs*, an-Nisā'ī and at-Tirmidhī, who said that it is authentic, record that the Prophet said,

وَلَكِنْ مِنْ غَائِطٍ وَبَوْلٍ وَنَوْمٍ.

> "[Remove your khuffs for *janābah*] but not for defecation, urination, or sleep."[43]

[42] Muslim, no. 360.

[43] Aḥmad, 4/239; al-Tirmidhī, no. 96, who called it *ḥasan ṣaḥīḥ*; al-Nisā'ī, 1/84; Ibn Mājah, no. 478; al-Dāraquṭnī, no. 15; Ibn Khuzaymah, no. 196.

–Chapter–
What Obligates *Ghusl* and its Description?

Ghusl (ritual bath) becomes obligatory for *janābah* (major ritual impurity) due to:

- ejaculation of semen during sexual intercourse, or outside of it;
- contact of the two circumcised parts [i.e., the vagina and the penis];
- emission of *ḥayḍ* (menstrual) or *nifās* (postpartum) bleeding;
- upon death, except for a martyr;
- a disbeliever who becomes muslim.

Allah says,

﴿وَإِن كُنتُمْ جُنُبًا فَاطَّهَّرُوا﴾

"If you are in a state of major ritual impurity, then purify yourselves." (Q, 5:6)

﴿وَلَا تَقْرَبُوهُنَّ حَتَّىٰ يَطْهُرْنَ ۖ فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ﴾

"Keep away from them during their menstrual period and do not go to them until they are purified. When they are purified, then go to them as Allah has ordained." (Q, 2:222)

Know that "until they are purified" means after they have performed *ghusl*. Additionally, the Prophet ordered *ghusl* for the person who washs the deceased,[44] and also ordered it for the one who embraces Islam.[45]

As for the manner in which the Prophet performed *ghusl* for *janābah*, it is the following:

1. He would first wash his private part.
2. Perform complete *wuḍū'* (and in some narrations he would exclude his feet).
3. Pour water on his head three times.[46]

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[44] Aḥmad, 2/280; Abū Dāwūd, no. 3161; al-Tirmidhī, no. 993, and he called it *ḥasan*.

[45] Abū Dāwūd, no. 355; al-Tirmidhī, no. 605, and he called it *ḥasan*; al-Nisā'ī, 1/109.

[46] The Shakyh has tried to eliminate any confusion by says, "Washing the parts three

4. Pour water over his entire body.
5. He would wash his feet at another place.[47]

The obligatory elements of *ghusl* is to wash the entire body, including what is under the thin and thick hair, and Allah knows best.

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times during *ghusl* is not from the *Sunnah*, with the exception of the head." He also preferred the view that if a person suffers from two types of ritual impurities, [one requiring *ghusl* and other requiring *wuḍū*] and he makes the intention for the major purity, and performs *ghusl* and washes his entire body, then that will suffice as well for him for the minor impurity, even though he did not explicityly intend that. See *al-Mukhtarāt*, pg. 18.

[47] See Bukhārī: 1/382; Muslim: 317.

-Chapter-
Tayyamum

A second type of purification[48] is *taharah*, which is an alternative to water[49], and it takes into affect when there is an inability to apply water to all or some of the body parts that are washed for purification,[50] either due to the unavailability of water or due to the fear of consequent harm that might occur if water is used. Thus, [clean] dirt is used in place of water in the following manner:

1. Intention to remove one's state of ritual impurity.
2. Saying *bismillāh* (In the Name of Allah).
3. Striking the ground once with his hands,[51] but if he strikes the ground twice it is not a problem. Wipes his entire face and hands with it.

Allah says,

﴿فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا فَامْسَحُوا بِوُجُوهِكُمْ وَأَيْدِيكُم مِّنْهُ مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُم مِّنْ حَرَجٍ وَلَٰكِن يُرِيدُ لِيُطَهِّرَكُمْ وَلِيُتِمَّ نِعْمَتَهُ عَلَيْكُمْ لَعَلَّكُمْ تَشْكُرُونَ﴾

"If you do not find any water, then perform *tayyamum* with clean earth and rub your faces and hands with it. Allah does not want to place you in difficulty, but he wants to purify you and complete

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[48] The first type of purification is with water. [TN]

[49] It takes the place of water in all circumstances. Therefore, it is necessary for a person to only make dry ablution when he enters any of the specified prayer times. It does not become invalid by entering of the prayer time nor by the expiry of that prayer time. When someone makes dry ablution for an optional prayer, he may offer the obligatory and less stressed prayers with the same *tayammum*. This has been affirmed by the Shaykh in *al-Mukhtārāt al-Jaliyyah* pg. 18.

[50] The Shaykh gave preference to the opinion that *tayammum* is not required and has not be legislated for the purification of the rest of the body parts. See *al-Mukhtarāt*, pg. 20.

[51] The Shaykh considered it sound that *tayammum* can be made by touching anything that is raised from the ground, whether it is dusty or not, or is a stone or anything else. This is based on the fact that the Prophet apparently made *tayammum* from the place he was in whenever the time for prayer entered. See *al-Mukhtārāt al-Jaliyyah*, pg. 19.

his favor upon you, so that you may be thankful." (Q, 5:6)

Bukhārī and Muslim have recorded that Jabir related that the Messenger of Allah said,

أُعْطِيتُ خَمْسًا لَمْ يُعْطَهُنَّ أَحَدٌ قَبْلِي . نُصِرْتُ بِالرُّعْبِ مَسِيرَةَ شَهْرٍ ، وَجُعِلَتْ لِي الأَرْضُ مَسْجِدًا وَطَهُورًا ، فَأَيُّمَا رَجُلٍ مِنْ أُمَّتِي أَدْرَكَتْهُ الصَّلاةُ فَلْيُصَلِّ ، وَأُحِلَّتْ لِيَ الْغَنَائِمُ وَلَمْ تَحِلَّ لأَحَدٍ قَبْلِي ، وَأُعْطِيتُ الشَّفَاعَةَ ، وَكَانَ النَّبِيُّ يُبْعَثُ إِلَى قَوْمِهِ خَاصَّةً وَبُعِثْتُ إِلَى النَّاسِ عَامَّةً.

"I have been given five things that were not given to anyone before me. I have been aided to victory by flooding terror [into my enemies'] hearts up to a month's journey. The entire earth has been made a place of prayer and pure [for purification], so when the prayer reaches anyone of you then let him pray. The spoils of war have been made permissible for me and it wasn't permissible for anyone before me. I will be given the right for intercession. Every Prophet was sent to their specific people, but I was sent to all of humanity."[52]

Whoever falls into minor ritual impurities, it is impermissible for him to do the following:

- Perform the prayer.
- Make *ṭawāf* (circumbabulation) of the Ka'bah.
- Touch the Qur'an.

Besides these, whoever falls into major ritual impurity cannot do the following:

- Recite anything from the Qur'an.
- Staying in the mosque except with *wudu'*.

Woman who are experiencing menstruation (*ḥayd*) or postpartum bleeding (*nifās*) are not permitted to do the following:

- Observe the fast.
- Have sexual relations.
- Get divorced.

[52] Bukhārī, 1/435; Muslim, no. 521.

-Chapter-
Ḥayḍ

The default ruling of blood that is emitted by a women is that it is menstrual blood, with no limit to its amount or frequency, and no limit to the age [of the woman].[53] However, if it occurs without specific time or any estimated time and it does not cease, except for a little, then she is considered as being *mustaḥāḍah*[54].[55] Regarding this type of woman, the Prophet commanded her to stay within her normal menstruation cycle [for not praying].[56] If she does not have a regular menstruation cycle, then she should try and distinguish [the timing of] it.[57] If she is unable to distinguish it, then she should look at the majority of the women as a whole [and see the timing of their menstruation cycle]: six or seven days. Allah knows best.

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[53] The Shaykh explained the soundness of his preferred opinon in *al-Mukhtārāt al Jalīyyah*, where he offers a lengthy detail of the arguments for his view He says, "The religious decree on the issue of menstrual cycle works as a basis for the irregular bleeding. The sound view is that there is no determined limit to judge its minimum and its maximum quantity. The view regarding the menstrual cycle is the same as well." See *al-Mukhtārāt al-Jalīyyah*, pg. 34-5.

Additionally, the Shaykh says, "When the normal menstrual blood is spotted the relevant religious rulings become effective. When the blood stops the woman becomes pure and the restrictions of menstruation are instantly removed. This is based on the religious texts, and the practice of the believers affirms this. In regards to what is the youngest age that a woman can begin to menstruate and what is the maximum age that she stops, and regards to what is the shortest possible menstrual period and what is the longest, then the *sharī'ah* is silent on these issues. Similarly, is the case of the duration of a pregnancy. The sound view is that there is no maximum time period determined by the *sharī'ah* " However, the Shaykh mentioned the differences between the various bloods that issue from the vaginal passage. See *al-Qawā'id wa'l-Furūq*, pg. 125 & 160.

[54] A woman who is experiencing *istiḥāḍah*, which is abnormal vaginal bleeding that occurs outside of menstrual or post-partum bleeding.

[55] The Shaykh held the view that a person can have sex with a woman who is suffering from irregular vaginal bleeding if there is no fear of harm to her The Prophet did not forbid the husbands of such women to remain away from them, since it is blood from a vein, and women who experience this are considered pure in all matters. Having sexual relations with them should also be considered allowable on the same basis. See *al-Mukhtārat al-Jalīyyah*, pg. 26.

[56] Bukhārī 1/426; Muslim, no. 334.

[57] The distinction is between menstrual bleeding and irregular bleeding. [TN]

Book of Ritual Prayer
(*Kitāb al-Ṣalāh*)

-Chapter-
The Conditions of Ṣalāh[58]

It has already been stated earlier that *ṭahārah* is a condition for *ṣalāh*. Another condition is the entrance of its time. The basis for this is the *ḥadīth* of Jibr'īl where he led the Prophet in prayer at the beginning of [each prayer] time and at its end. He then said, "Muhammad, prayer is [to be offered] between these two times."[59] It has also related on the authority of 'Abdullah b. 'Amr that the Prophet said,

وَقْتُ الظُّهْرِ إِذَا زَالَتِ الشَّمْسُ وَكَانَ ظِلُّ الرَّجُلِ كَطُولِهِ مَا لَمْ يَحْضُرِ الْعَصْرُ وَوَقْتُ الْعَصْرِ مَا لَمْ تَصْفَرَّ الشَّمْسُ وَوَقْتُ صَلَاةِ الْمَغْرِبِ مَا لَمْ يَغِبِ الشَّفَقُ وَوَقْتُ صَلَاةِ الْعِشَاءِ إِلَى نِصْفِ اللَّيْلِ الْأَوْسَطِ وَوَقْتُ صَلَاةِ الصُّبْحِ مِنْ طُلُوعِ الْفَجْرِ مَا لَمْ تَطْلُعِ الشَّمْسُ فَإِذَا طَلَعَتِ الشَّمْسُ.

"The time for *ẓuhr* is when the sun is past its zenith and before

[58] The Shaykh explained elsewhere, "Whoever disputes the fact that the prayer is obligatory or ignores it due to denuncation or laziness, then he can be excommunicated [from the religion], and can be dealt with as an apostate." See *Nūr al-Baṣā'ir*, pg. 15.

[59] Aḥmad, 1/333; Abū Dāwūd, no. 393; al-Tirmidhī, no. 149, who called it *ṣaḥīḥ*; ibn Khuzaymah, no. 325.

the shadow of a man is equal to his height, and *'asr* has not yet commenced. The time for *'asr* lasts [until] the sun has not become yellow. The time for *maghrib* lasts [until] the twilight disappers from the sky. The time for *'isha'* lasts until half the night. The prayer time for *subh* (*fajr*) is [until] the coming of the *fajr* (dawn) and continues until sunrise."[60]

The *salāh* is caught by the catching of the *rak'āh* (unit of prayer). The Prophet said,

مَنْ أَدْرَكَ رَكْعَةً مِنَ الصَّلَاةِ فَقَدْ أَدْرَكَ الصَّلَاةَ.

"Whoever catches a *rak'āh* from the *ṣalāh* has caught the *ṣalāh*."[61]

It is not permissible to delay the *salāh* beyond its prescribed time without a valid legal excuse, or the like.[62] If it is done for the purpose of combining it with another *ṣalāh*, then it is permissible if there is a valid legal excuse, such as traveling, [heavy] rain, sickness, or anything similar. It is preferable to perform the *ṣalāh* at the beginning of its prescribed time, except for:

- *'Isha'*, if it is not difficult.
- *Ẓuhr* in case of scorching heat. The Prophet said,

إِذَا اشْتَدَّ الْحَرُّ فَأَبْرِدُوا عَنِ الصَّلَاةِ فَإِنَّ شِدَّةَ الْحَرِّ مِنْ فَيْحِ جَهَنَّمَ.

"When the the heat becomes fierce, then cool yourself from the prayer [by praying it later], as the severity of the heat is from the raging of Hell."[63]

Whoever misses a *ṣalāh*, it is upon him to make it up immediately and

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[60] Muslim, 612.

[61] Muslim, no. 607; Bukhāri, 2/57. The Shaykh said elsewhere, "Catching the prayer, referred to in this *ḥadith*, is applicable to all the *ṣalahs* including the Friday congregational and the daily congregational prayers." See al-*Mukhtārāt al-Jalliyyah*, pg. 29.

[62] They Shaykh said elsewhere, "Shaykh al-Islam ibn Taymiyyah claimed that the Islamic community is unanimous on the fact that the obligatory prayer cannot be knowingly delayed for any excuse other than jihad. The reason is that the scholars have allowed delaying the prayer in the legal form of jihad, even though the majority have not allowed it in this situation. As for the rest of the possible excuses for delaying, then there is no other acceptance. On the contrary, the believer must offer the prayer during its prescribed time to the best of his ability." See *al-Mukhtārāt al-Jalliyyah*, pg. 27

[63] Bukhārī, 2/15-18; Muslim, no. 615.

in order.[64] If he forgets the order, is unaware of it, or fears that the [current] *ṣalāh* will be missed,[65] then the order of prayer is dropped [and he prays the current *ṣalāh* and then makes up the missed *ṣalah*].[66]

Other conditions of prayer include covering the *'awrah* (parts of the body that must be covered in public) with a permissible garment that does not display the shape of a person's [body].[67] *'Awrah* is of three types:

- *'Awrah mughallaẓah* (greater nakedness), which is the *'awrah* of a free woman who has attained maturity. In prayer her entire body is *'awrah* with the exception of her face.
- *'Awrah mukhaffafah* (lesser nakedness), which is the *'awrah* of those who are between the ages of seven to ten, and encompasses their private parts.
- *'Awrah mutawassiṭah* (medium nakedness), which is *'awrah* of other than the previous two types, and includes from the navel to the knees.[68] Allah says,

﴿يَٰبَنِيٓ ءَادَمَ خُذُواْ زِينَتَكُمۡ عِندَ كُلِّ مَسۡجِدٖ﴾

"Children of Adam, cover your ornaments while in the mosque." (Q, 7:31)

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[64] Meaning, the individual should pray the missed *salāh* before the current *ṣalāh*

[65] Shaykh ibn 'Aqil said that perhaps the Shaykh intends to refer to the fear that the prayer of that particular time and the congregation may be lost if he maintains the order of the prayers. In this situation the soundest view is to ignore the order [and first pray with the congregation].

[66] The Shaykh has opined elsewhere that the observance to offer the missed prayers in their due order is lifted if one fears that prayer in congregation of the current *ṣalāh* may be missed in doing so. See *al-Mukhtārāt al Jallıyyah*, pg. 29.

[67] The Shaykh held the opinion that if a believer offers a prayer in ritually impure clothes because of forgetfulness or another compulsion, then he is not required to repeat the prayer. See *al-Mukhtārāt al-Jallıyyah*, pg. 29.

[68] The Shaykh says elsewhere, "The correct view is that covering of both or one of the shoulders during *ṣalāh* by men accomplishes and brings to perfection the obligation to cover the body. However, it is not a necessary requirement The following tradition related on the authority of Abū Hurayrah, 'A man does not offer prayer in a single piece of cloth while his shoulders are not covered by it,' has been explained and detailed by the following tradition attributed to Jābir, 'If the cloth is long, then let the person cover his entire body with it, but if it is not sufficient, then he may tie it around his waist or through and around his pelvic arch.' Thus, the shoulders are not *'awrah* (the part of the body that must be covered), and so to cover them in the *ṣalāh* is to extend the original obligation to perfection. This is the view of the majority of the scholars." See *al-Mukhtārāt al-Jalliyyah*, pg. 29.

Another condition is facing the Qiblah. Allah says,

﴿ وَمِنْ حَيْثُ خَرَجْتَ فَوَلِّ وَجْهَكَ شَطْرَ الْمَسْجِدِ الْحَرَامِ ﴾

"From wherever you start [your prayers], turn your face in the direction of Masjid al-Ḥarām." (Q, 2:149)

However, if a person is unable to face the Qiblah due to sickness or something similar, then the obligation is dropped from him, just as all other obligations are dropped from him in case of his inability to perfrom them. Allah says,

﴿ فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ ﴾

"So fear Allah as much as you can." (Q, 64:16)

The Prophet used to pray the superogatory *ṣalāh* while riding on his mount facing whatever direction it faced.[69] Another condition is intention (*niyyah*).[70]

Additionally, *ṣalah* is permissible in any place except the following:

1. a place that is impure,
2. an uspured property,
3. cemeteries,[71]
4. bathrooms, or
5. camels-pens.[72]

Al-Tirmidhī recorded in his *Sunan*, and it is *marfū'*, that the Prophet

[69] Bukhārī, 2/489; Muslim, no. 700. The Shaykh affirmed elsewhere that the plausible view in this regard is that the worshipper on the mount is not obliged to face the *qiblah* during his standing, bowings, and prostration. See *al-Mukhtārāt al-Jaliyyah*, pg. 32.

[70] The Shaykh says elsewhere, "As for the issues concerning the intention in the *ṣalāh*, then the correct view is that a worshipper can, at times of compulsion, change [his prayer in the following ways] 1) he can change an obligatory prayer to a voluntary prayer in his heart. 2) if he is offering the *ṣalāh* individually, he can join the congregation, and vice versa. 3) The imam, who is leading the prayer, can alter his position to join those who are led in the congregation. All these steps are permissible and there is nothing that restricts them, as they have all been practiced by the Prophet." See *al-Mukhtārāt al-Jaliyyah*, pg. 32.

[71] The Shaykh says elsewhere, "This excludes the funeral prayer, and it does not harm the validity of the prayer." See *al-Irshād*, pg. 48.

[72] The Shaykh says elsewhere that the prohibition to pray in slaughterhouses, landfills, the trodden part of the path, on the roof of the House of Allah, are all baseless and not authentic. Even weaker is the claim that praying on the out parts of these places is similarly prohibited. See *al-Irshad*, pg. 48; *al-Mukhtarāt al-Jalliyyah*, pg. 31.

said,

الأَرْضُ كُلُّهَا مَسْجِدٌ إِلاَّ الْمَقْبَرَةَ وَالْحَمَّامَ.

"The entire earth is a place for prayer, except for cemeteries and bathrooms."[73]

The Characteristics of the Prayer

It is recommended for an individual to come to the prayer in a state of tranquility and dignity. When he enters the mosque he should utter,

بِسْمِ اللهِ وَالصَّلَاةُ عَلَى رَسُوْلِ الله ، اللَّهُمَّ اغْفِرْ لِي ذُنُوبِي ، وَافْتَحْ لِي أَبْوَابَ رَحْمَتِكَ

"*Bismillāh, waṣ-ṣalātu was-salāmu 'ala rasūlillah. Allāhum maghfir lī dhunūbī waf-tah lī abwāba raḥmatika* (In the Name of Allah, peace and blessings be upon the Messenger of Allah. Allah forgive my sins and open for me the gates to Your mercy)."[74]

He enters the mosque with his right foot and exits it with his left saying the same supplication, though [instead of saying, "open for me the gates of Your mercy,"] he says,

وَافْتَحْ لِي أَبْوَابَ فَضْلِكَ.

"*Wafth lī abwāba faḍlika* (Open for me the gates of Your bounty)."[75]

Similar to what was mentioned in the *hadīth* that has been recorded by Aḥmad and ibn Mājah.[76]

When he stands for the prayer he says, "*Allāhu Akhbar* (Allah is Great)". He raises his hands [palms facing the Qiblah] parallel to his

[73] Abū Dawūd, no. 492; al-Tirmidhī, no. 317; ibn Majāh, no. 745, Aḥmad, 3/83, 96, al Ḥākim, 1/251, and he labeled it *ṣaḥīḥ* according to the conditions of Bukharī and Muslim.

[74] Ibn Mājah, no. 772, al-Tirmidhī, no. 314 without the words, "In the Name of Allah," and he called it *ḥasan*; an-Nisā'ī, 2/53; Abū Dāwūd, no. 465, Muslim, no. 713 with the words, "If one of you enters the mosques let him say, '[Allah,] open for me the gates of Your mercy,' and when he leaves it let him say, 'Allah, I ask You for Your bounty.'"

[75] Muslim, no. 713.

[76] Aḥmad, 6/282; al-Tirmidhī, no. 314; ibn Mājah, no. 771. Shaykh al-Arnā'ūṭ said, "The *isnād* of this narration suffers from weakness, and it is also broken. A *ḥadīth* from 'Anas, recorded by ibn al-Sinnī (no. 86) corroborates it, but it's *isnād* is also weak. However, with this mutual support the *hadith* gains some weight, which is why al-Tirmidhī termed it *ḥasan* (sound)." See *Zād al-Ma'ād* 2/370.

shoulders or to his earlobes in four situations:

- Upon reciting the *takbīrat al-iḥrām* (opening *takbīr* of prayer).
- Upon making *rukū'* (bowing position).
- Upon rising from *rukū'*.
- Upon rising from [the sitting position] for the first *tashhahhud* (testification of faith in the second unit of prayer), as this is supported by authentic Prophetic *ḥadīths*.[77]

He places his right hand over his left hand either under the navel, above his navel, or on his chest. Afterwards, he says,

سُبْحَانَكَ اللَّهُمَّ وَبِحَمْدِكَ وَتَبَارَكَ اسْمُكَ ، وَتَعَالَى جَدُّكَ وَلَا إِلَهَ غَيْرُكَ.

"*Subḥanak Allāhuma wa bi ḥamdika wa tabāraka ismuka wa ta'āla Jadūka wa lā ilaha ghairuk* (Allah, Glory and praise be to You, blessed be Your Name, exalted be Your Majesty, and none has the right to be worshiped except You)."[78]

He can also say any other opening supplication that is reported from the Prophet. He should say, "*A'ūdhu billahi min ash-shayṭān nir rajīm* (I seek refuge in Allah from Satan)," and then says, "*Bismillāh* (In the Name of Allah)." He then recites *Sūrah al-Fātiḥah*.[79] Afterwards, he recites in the first two *rak'āhs* of a three or four *rak'āh* prayer another *sūrah* as follows:

- In the *fajr* prayer he should recite from the longer ones.
- During the *maghrib* prayer he should recite from the shorter ones.
- In the rest of the prayers, he should recite from the average length ones.

When he offers the night prayer,[80] he should recite in a loud voice, and for the prayers in the day[81] he should recite in a subdued voice with the exception of the Friday congregational prayer (*jumu'ah*), the

[77] See Bukhārī, 2/222; Muslim, no. 390.
[78] Abū Dawūd, no. 776; al-Tirmidhī, no. 243; ibn Majah, no. 806; al-Bayhaqī, 2/34; and al-Ḥākim, 1/235, who called it authentic.
[79] This is the first *Sūrah* of the Holy Qur'an. [TN]
[80] This refers to the *maghrib*, *'ishā'*, and *fajr* prayers. [TN]
[81] This refers to the *ẓuhur* and *'asr* prayers. [TN]

eclipse prayer (*kusūf*), the two 'eids, and the prayer for rain (*istisqā*), which are all to be recited in a loud voice.

[After, reciting *al-Fatiḥah* and another *sūrah*] he makes the *takbīr*[62] and goes into *ruku*, placing his hands on his knees and his head perpendicular to his back. In this position he says,

سُبْحَانَ رَبِّيَ الْعَظِيمِ.

"*Subḥāna Rabbī yal 'aẓīm* (Glory to my Lord the Supreme)"[63]

He repeats it [three times]. He may also say along with that during *rukū'* (bowing) and *sujūd* (prostration),

سُبْحَانَكَ اللَّهُمَّ رَبَّنَا وَبِحَمْدِكَ ، اللَّهُمَّ اغْفِرْ لِي.

"*Subḥāna kal-lāhuma Rabbanā wa bi ḥamdika, Allāhum maghfirlī* (Glory be to You; praise be to You my Lord. Allah, forgive me)."[64]

He then raises his head and says,

سَمِعَ اللهُ لِمَنْ حَمِدَهُ.

"*Sami' allāhu liman ḥamidah* (Allah answers those who praise Him)."

He says this whether he is the *imām* (leader) [of the congregation] or [praying] individually. He also says,

رَبَّنَا وَلَكَ الْحَمْدُ حَمْدًا كَثِيرًا طَيِّبًا مُبَارَكًا فِيهِ مِلْءُ السَّمَاوَاتِ وَمِلْءُ الْأَرْضِ ، وَمِلْءُ مَا شِئْتَ مِنْ شَيْءٍ بَعْدُ.

"*Rabbanā walakal ḥamd, ḥamdan, kathīran, tayyiban, mubarakan fīhi mila' as-samā'a wa mila' al-arḍi wa mila' mā shay'in ba'd* (Our Lord, for You is all praise; praise that is abundant, pure, blessed. [Praise] as much as the filling of the heavens and the earth and all that is within them, and the filling of whatever You like beyond that)."[65]

He then goes into *sujūd* (prostration), prostrating on his seven limbs, as the Prophet said,

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[62] The *takbīr* is the utterance of *Allāhu Akbar* (Allah is the Greatest). [TN]

[63] Aḥmad, 5/382; al-Dārmi, 1/299; Abū Dāwud, no. 871, al-Tirmidhi, no. 261; al-Nisā'ī, 2/190; ibn Mājah, no. 888.

[64] Bukhārī, 2/199; Muslim, no. 484.

[65] Muslim, no. 476.

أُمِرْتُ أَنْ أَسْجُدَ عَلَى سَبْعَةِ أَعْظُمٍ عَلَى الْجَبْهَةِ - وَأَشَارَ بِيَدِهِ عَلَى أَنْفِهِ - وَالْيَدَيْنِ وَالرُّكْبَتَيْنِ وَأَطْرَافِ الْقَدَمَيْنِ.

"I have been ordered to prostrate on seven limbs: the forehead,"—and he pointed with his hand around his nose—"the palms, the knees, and the toes."[86]

While in *sujūd* he says,

سُبْحَانَ رَبِّيَ الأَعْلَى.

"*Subhāna rabbi yal a'lā* (Glory be to my Lord, the Most High)."[87]

Then he says the *takbīr* and sits on his left leg while keeping his right foot erect, this position is called *iftirāsh*. This is to be done in all the seated [positions] during *ṣalāh*, except during the sitting of the last *tashahhud*[88] where he should sit in a position called *al-tawarruk*, in which he places the left leg under his right leg, [which remains erect], and he rests [his buttocks] on the ground [and not on his left leg]. [Sitting between the two *sujūds*] he should recite,

رَبِّ اغْفِرْ لِي ، وَارْحَمْنِي ، وَاهْدِنِي ، وَارْزُقْنِي ، وَاجْبُرْنِي ، وَعَافِنِي.

"*Rabbigh-firlī, war ḥamnī, wah dinī, war zuqnī, waj burnī, wa 'āfinī* (My Lord forgive me, have mercy upon me, guide me, sustain me, compel me to goodness, and give me health)."[89]

He makes the second *sujūd* like the first one. Afterwards, he rises from *sujūd* to a standing position, relying on his feet. He performs the second *rak'āh* similar to the first one, and then sits for the first *tashahud* in which he says,

التَّحِيَّاتُ لِلَّهِ وَالصَّلَوَاتُ وَالطَّيِّبَاتُ ، السَّلَامُ عَلَيْكَ أَيُّهَا النَّبِيُّ وَرَحْمَةُ اللهِ وَبَرَكَاتُهُ ، السَّلَامُ عَلَيْنَا وَعَلَى عِبَادِ اللهِ الصَّالِحِينَ ، أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللهُ ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ.

"*At-tahiyyatu lilāhi was-ṣalawātu waṭ ṭayyibātu, as-salāmu 'alayka*

[86] Bukhārī, 2/297; Muslim, no. 490.
[87] Aḥmad, 5/382; al-Dārmi, 1/299; Abū Dāwūd, no. 871; al-Tirmidhi, no. 261; ibn Mājah, no. 888.
[88] Referring to the *ṣalahs* that have two *tashahhuds* in them. See *Nūr al-Baṣā'ir*, pg. 16.
[89] Aḥmad, 1/371; Abū Dāwūd, no. 580; al-Tirmidhi, no. 284; ibn Mājah, no. 898; al-Ḥākim, 1/262, who classified it as *ṣaḥīḥ*; al-Bayhaqi, 2/122.

ayyuhān nabiyu wa rahmatul lāhi wa barakatuhu, as-salāmu 'alainā wa 'ala 'ibadillā his-ṣāliḥīn. Ash-hadu an lā ilaha ilāllahu wa ash hadu ana Muḥammadan 'abduhu wa rasuluhu (Sovereignty is for Allah, all acts of worship and good deeds are for Him. May the peace, mercy, and blessings of Allah be upon you, Prophet. Peace be upon us and all of Allah's righteous servants. I bear witness that none has the right to be worshiped except Allah, and I bear witness that Muhammad is His slave and Messenger)."[90]

He then says *takbīr* and stands for the completion of the *ṣalāh* [if the *ṣalāh* comprise of more than two units]. In the remaining units he limits himself to just reciting *al-Fātihah*. For the last sitting he recites the *tashahhud* and then recites,

اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ كَمَا صَلَّيْتَ عَلَى إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ إِنَّكَ حَمِيدٌ مَجِيدٌ اللَّهُمَّ بَارِكْ عَلَى مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ كَمَا بَارَكْتَ عَلَى إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ إِنَّكَ حَمِيدٌ مَجِيدٌ.

"*Allāhuma ṣalli'ala Muḥammadin wa 'ala āli Muhammadin, kamā ṣallayta 'ala Ibrāhīma wa 'ala āli Ibrāhīma innaka ḥamidun majīd. Allāhuma bārik 'ala Muḥammadin wa 'ala āli Muhammadin kamā bārakta 'ala Ibrāhīma wa 'ala āli Ibrāhīma, innaka ḥamidun majīd.* (Allah, send Your blessings upon Muhammad, and the household of Muhammad, just as You sent Your blessings on Ibrāhīm, and the household of Ibrahim. You are indeed full of all praise and majesty. Allah, be gracious upon Muhammad, and the household of Muhammad, just as You were gracious on Ibrāhīm and upon the household of Ibrāhīm. You are indeed full of praise and majesty)."[91]

[He then recites],

أَعُوذُ بِكَ مِنْ عَذَابِ جَهَنَّمَ وَمِنْ عَذَابِ الْقَبْرِ وَمِنْ فِتْنَةِ الْمَحْيَا وَالْمَمَاتِ وَمِنْ شَرِّ فِتْنَةِ الْمَسِيحِ الدَّجَّالِ.

"*A'ūdhu bika min 'adhābi jahanama wa min adhābil qabri, wa min fitnatil maḥyā wal mamāti, wa min sharri fitnatil Masīḥud Dajjal* (I seek refuge in You from the punishment of Hell and from the punishment of the grave, and from the trials of life and death and from the trials

[90] Bukhārī, 11/13; Muslim, no. 402.
[91] Bukhārī, 6/408; Muslim, no. 406.

of the Dajjāl)."[92]

He can then make any other *du'ā* (supplication) that he desires, and afterwards says the *taslīm*, "*As-salamu 'alaikum wa rahmatullah* (May Allah's peace and mercy be upon you)" while turing his face to the right and then to the left. This is based on the *ḥadīth* narrated by Wā'il b. Ḥajar and recorded by Abū Dāwūd.[93]

The *arkān* (pillars) of *ṣalāh* are:

- *Takbīr al-iḥram,*[94]
- Recititation of *al-Fātiḥah,*[95]
- The last *tashahhud,*[96] and
- making the *taslīm*[97].[98]

The rest, however, are actual with the exception of the following:

- The first *tashahhud*, since it is from the obligations of the *ṣalāh.*[99]
- The remaining *takbirs*, other than the *takbīr al-iḥram.*
- Saying *Subḥān Rabbiyal Aẓīm* in *rukū'*.
- Saying *Subḥān Rabbiyal 'Alā* once in *sujūd*,
- Saying, *Rabbigh firlī* between the two *sujūds* once, and what is said more than that is [only] recommended.
- *Sami'allāhu liman ḥamida* for the one who is leading or praying individually.

[92] Muslim, no. 588 & 590.
[93] See Abū Dāwūd, no. 997. 'Abd al-Qādir al-Arnā'ūṭ says, "It's *isnād* is broken, since we know that 'Alqamah b. Wa'il did not directly hear *hadīths* from his father. However, other corroborative *hadīths* lend support to it." See *Jāmi' al-Uṣul*, no. 3566.
[94] It is the initial *takbīr* (saying *Allāhu Akbar*) which initiates the prayer.
[95] The Shaykh said elsewhere, "When the person praying behind an Imam is listening to the Imam's audible recitation [of the Qur'an], he is no longer obliged to recite it himself as this has not been legislated by the *shari'ah*. However, if the Imam is reciting in an inaudible voice, then he must recite *Sūrah al-Fatiḥah*." He further says, "From all the views offered on this question, this one is the most balanced. All the evidences jointly affirm it." See *al-Mukhtārāt al-Jaliyyah*, pg. 38.
[96] The Shaykh has mentioned that it includes invoking Allah's blessings on the Prophet. See *Nūr al-Baṣāir*, pg. 17.
[97] *Taslīm* is the saying of *assalamu alaykum wa rahmatullāh* (May the peace and blessing of Allah be upon you), which concludes the prayer. [TN]
[98] The Shaykh counted the two *salāms* marking the end of the *ṣalāh* as one of its pillars. See *Nūr al-Baṣāir*, pg. 17.
[99] According to the Shaykh, the sitting position for offering the *tashahhud* is also obligatory. See *Nūr al-Baṣāir*, pg. 17.

- *Rabanna laka hamd* for everyone.

If any of these obligations are omitted due to forgetfulness, then it requires *sujūd al-sahw*[100] [as expiation]. However, the mandatory pillars cannot be ommitted due to forgetfulness, ignorance, or intentionally. The rest of the prayer rituals are actual *sunan* that are complimentary to the *ṣalāh*.

Among the *arkān* is maintaining tranquility during the performance of all the pillars. It is related on the authority of Abū Hurayrah that the Prophet said,

إِذَا قُمْتَ إِلَى الصَّلَاةِ فَأَسْبِغِ الْوُضُوءَ ، ثُمَّ اسْتَقْبِلْ الْقِبْلَةَ فَكَبِّرْ ثُمَّ اقْرَأْ بِمَا تَيَسَّرَ مَعَكَ مِنَ الْقُرْآنِ ، ثُمَّ ارْكَعْ حَتَّى تَطْمَئِنَّ رَاكِعًا ، ثُمَّ ارْفَعْ حَتَّى تَسْتَوِيَ قَائِمًا ، ثُمَّ اسْجُدْ حَتَّى تَطْمَئِنَّ سَاجِدًا ، ثُمَّ ارْفَعْ حَتَّى تَطْمَئِنَّ جَالِسًا ، ثُمَّ اسْجُدْ حَتَّى تَطْمَئِنَّ سَاجِدًا ، ثُمَّ ارْفَعْ حَتَّى تَطْمَئِنَّ جَالِسًا ثُمَّ افْعَلْ ذَلِكَ فِي صَلَاتِكَ كُلِّهَا.

"If you [are ready to] stand for prayer, perform *wudu'* well, then face the Qiblah and utter the *takbīr*. Afterwards, recite what you know from the Qur'an, then bow until you come to ease. Subsequently, rise up until your back is straight, and then prostrate until you come to ease. Rise until you sit upright, then prostrate again until you come to ease. Afterwards, rise until you sit upright. Perform this throughout your prayer."[101]

He also said,

صَلُّوا كَمَا رَأَيْتُمُونِي أُصَلِّي.

"Pray as you see me pray."[102]

After he concludes the *ṣalāh* he does the following:

- Say three times,

  أَسْتَغْفِرُ اللهَ.

  "*Istagh firullāh* (I ask Allah for forgiveness)."

- [Then he says,]

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[100] This is in reference to the prostration for forgetfulness. [TN]
[101] Bukhārī, 2/237; Muslim, no. 397.
[102] Bukhārī, 2/111.

اللّٰهُمَّ أَنْتَ السَّلَامُ وَمِنْكَ السَّلَامُ تَبَارَكْتَ يَا ذَا الْجَلَالِ وَالإِكْرَامِ.

"*Allāhumma antas-salāmu wa minkas salāmu tabārakta yā dhāl jalāli wā'l ikrām* (Allah you are the Source of Peace and from You is all peace; blessed are You, Possessor of Majesty and Honor)."[103]

- He then says,

لاَ إِلَهَ إِلاَّ اللّٰهُ وَحْدَهُ لاَ شَرِيكَ لَهُ لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ لاَ حَوْلَ وَلاَ قُوَّةَ إِلاَّ بِاللّٰهِ لاَ إِلَهَ إِلاَّ اللّٰهُ وَلاَ نَعْبُدُ إِلاَّ إِيَّاهُ لَهُ النِّعْمَةُ وَلَهُ الْفَضْلُ وَلَهُ الثَّنَاءُ الْحَسَنُ. لاَ إِلَهَ إِلاَّ اللّٰهُ مُخْلِصِينَ لَهُ الدِّينَ وَلَوْ كَرِهَ الْكَافِرُونَ.

"*Lā ilāha illallāhu waḥdahu lā sharīka lahu, lahul mulku wa lahul ḥamdu wa huwa 'ala kulli shay'in qadīr. Lā ḥawla wa lā quwwata illā billāhi, lā ilaha illal lāhu, wa lā na'budu illā iyyāhu, lahun ni'matu wala hul faḍlu walahuth thanā-ul-ḥasanu, lā ilāha illal lāhu mukhliṣīna lahud dīna wa law karihal kāfirūn* (There is no diety worthy of worship except Allah, with no partners. To Him belongs all dominion, and to Him belongs all praise. He is able to do all things. There is no might nor power except with Allah. There is none worthy of worship but Allah, and we worship none but Him. To Him belongs all grace and favor, and to Him is all glorious praise. There is diety worthy of worship but Allah, and we are sincere in faith and devotion to Him even though the disbelievers may detest it)."[104]

- He then says thirty three times each,

سُبْحَانَ اللّٰهِ و الْحَمْدُ لِلّٰهِ ، و اللّٰهُ أَكْبَر.

"*Subḥānallāhi, wa'l-ḥamdulillāh, wa'l lāhu* Akbar (Glory be to Allah, All praise is for Allah, Allah is the Greatest)."

He then says [the following] once to complete a hundred,

لاَ إِلَهَ إِلاَّ اللّٰهُ وَحْدَهُ لاَ شَرِيكَ لَهُ لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ.

[103] Muslim, no. 591.

[104] Muslim, no. 594 with the following addition, "There is no might and no power but with Allah." Without the addition it has been recorded by al-Nisā'ī and others.

"*Lā ilāha illal lāhu wahdahu lā sharīka lahu, lahul mulku wa lahul ḥamdu wa huwa 'ala kulli shay'in qadīr* (There is no deity worthy of worship except Allah, with no partners. To Him belongs all dominion, and to Him belongs all praise. He is able to do all things)."[105]

The highly emphasized *sunnah* prayers, which follow the obligatory prayers, are ten. It is mentioned in the *ḥadīth* of ibn 'Umar that he said,

حَفِظْتُ مِنَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَشْرَ رَكَعَاتٍ: رَكْعَتَيْنِ قَبْلَ الظُّهْرِ وَرَكْعَتَيْنِ بَعْدَهَا، وَرَكْعَتَيْنِ بَعْدَ الْمَغْرِبِ فِي بَيْتِهِ، وَرَكْعَتَيْنِ بَعْدَ الْعِشَاءِ فِي بَيْتِهِ، وَرَكْعَتَيْنِ قَبْلَ صَلَاةِ الصُّبْحِ.

"I learned from the Messenger of Allah ten *rak'āhs*: two *rak'ahs* before and [two] after *ẓuhr*; two *rak'āhs* after *maghrib* at home; two *rak'āhs* after *'ishā'* at home; and two *rak'āhs* before the morning prayer [i.e., *fajr*]."[106]

[105] Muslim, no. 597

[106] Bukhārī, 3/58; Muslim, no. 729. The Shaykh has said elsewhere that there are twelve *sunnahs*; four before *ẓuhr*... See *Nūr al-Baṣā'ir*, pg. 19.

-Chapter-
Prostration for Forgetfulness (*Sujūd al-Sawh*), Recitation (*Sujūd al-Tilāwah*), and Gratitude (*Sujūd al-Shukr*)[107]

Sujūd al-Sawh is prescribed for the following:

- If one unintentionally increases the [number of] bowing (*rukū'*), prostration (*sujud*), standing (*qiyām*), or sitting (*qu'ūd*) in the prayer.
- Misses any of the mentioned acts above, in which case he should repeat the omitted act and then perfrom *sujūd al-sahw*.[108]
- Forgetfully omitts an obligatory act.
- If he has doubt as to whether he added or omitted anything from the prayer.[109] It has been authentically reported that the Prophet once stood up without performing the first *tashahhud*, so he performed *sujūd al-sahw*.[110] It is also reported that the Prophet once made *taslīm* after praying two *rak'ahs* (units of prayer) of *zuhr* or *'asr*. When the Companions notified him of this, he completed the prayer and then performed *sujūd al-sahw*.[111] On another occasion the Prophet prayed *ẓuhr* as five

[107] Shaykh ibn Aqil said that the author has mentioned all three, whereas there is a difference between them. The latter two are optional acts while the first is *wājib*. The author has treated them similarly in [his explanation of] *al-Bulūgh al Marām*.

[108] According to the Shaykh, whoever forgets to offer a foundational part of the *ṣalāh* must return to it as soon as he remembers it. However, if he does not remember it until he reaches the same place of the next *raka'ah* then, in that case, he discounts the first *raka'ah* and the second one becomes his first. See *al Mukhtārāt al Jallīyyah*, pg. 35.

[109] The Shaykh said elsewhere, "The most plausible view on the question of doubt regarding the number of the *rak'ah* is to base oneself on what is more certain, which is the least number he thinks he has offered, since the doubt is affecting all the options equally and none of them is more probable than the other. However, if his mind has a preference for one of them, then he should follow that sounder option." See *al Mukhtārāt al-Jallīyyah*, pg. 36.

[110] Bukhārī, 3/921, Muslim, no. 570. The Shaykh has affirmed, "When a worshipper forgets to sit for the *tashahhud* in the second *rak'ah* and instead stands up directly and does not remember before he is completely erect, then he must not go back to the sitting position to make it up. This is true even if he remembers before starting the recitation after standing erect. This view is based on a *ḥadīth* from al Mughīrah." See *al-Mukhtārāt al-Jallīyyah*, pg. 35.

[111] Bukhārī, 10/468; Muslim, no. 573.

rak'āhs, so someone aked him, "Has the prayer increased?" He replied, "Why do you ask?" They said to him, "You have prayed five [*rak'āhs*]," so he prostrated twice after he made the *taslīm*.[112] Besides, the Prophet said,

> إذا شَكَّ أحَدُكُمْ فِي صَلاتِهِ ، فَلَمْ يَدْرِ كَمْ صَلَّى، ثَلاثًا أمْ أرْبَعًا؟ فلْيَطْرَحِ الشَّكَّ ، وَلْيَبْنِ عَلى مَا اسْتَيْقَنَ ، ثُمَّ يَسْجُدُ سَجْدَتَيْنِ قَبْلَ أنْ يُسَلِّمَ ، فَإنْ كَانَ صَلَّى خَمْسًا شَفَعْنَ لهُ صَلاتَه ، وَإنْ كَانَ صَلَّى إتْمَامًا لأرْبَعٍ كَانَتَا تَرْغِيمًا لِلشَّيْطَانِ.
>
> "If any of you has doubts regarding his prayer and does not know how many *rak'āhs* he has prayed, either three or four, then let him cast off the doubt and build on what he is certain and then prostrate twice before the *taslīm*. If he prayed five he would have evened his prayer, and if he prayed a complete four *rak'āhs*, then the two prostrations will be in defiance of Satan."[113]

A person can perfrom *sujūd al-sahw* either before or after the *taslīm*.[114]

It is *sunnah* for the reciter of the Qur'an and the listener, whether inside the *ṣalāh* or outside of it, to perform *sujūd al-tilāwah* (prostration for recitation) [when a verse requiring it is recited].[115] Likewise, if a blessing is conferred on him or a calamity was repelled from him, then he should perfrom *sujūd al-shukr* (prostration for gratitude). The ruling of *sujūd al-shukr* is similar to *sujūd al-tilāwah*.

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[112] Bukhārī, 1/403 & 405; Muslim, no. 572.

[113] Aḥmad, 3/83; Muslim, no. 571.

[114] The Shaykh has clarified elsewhere that a person does not sit for the *tashahhud* after offering the *sujud al-sahw* (prostration for forgetfulness). See *al-Mukhtārāt al-Jalliyyah*, pg. 36.

[115] The Shaykh said elsewhere, "If one faces the obligation to offer a prostration while reciting the Qur'an in the prayer, then it may be offered after all the necessary conditions for the validity of the prayer have been fulfilled. However, if one recites the Qur'an outside the *ṣalāh* and faces the obligation, then he can perform the prostration without obtaining ritual purification and turning toward the *Qiblah*. In this case it is not part of the original legislated form of prostration as it is in the *ṣalāh*, rather, in this case it is more akin to supplication. It is like any other prostration made to express one's gratitude to Allah, and is nearer to the common supplications than that." See *al-Mukhtārāt al-Jalliyyah*, pg. 36.

-CHAPTER-
THE NULLIFIERS OF *ṢALĀH* AND THAT WHICH IS DISLIKED

The prayer is nullified by the following:[116]

- Neglecting a pillar or a condition that he is able to fulfill, whether it is done willfully, forgetfully, or out of ignorance.
- Willful abandonment of an obligation.
- Purposely speaking[117] or laughing loudly.
- Unnecessary successive movements, which is considered [by people] as being excessive.[118]

This is because in the first case a person would have neglected that

[116] Concerning the invalidation of the Imam's *ṣalāh* the Shaykh said, "The view that the invalidation of the *ṣalāh* of the Imam [due to utterance or action] also invalidates that of the congregation is not tenable, and there is no proof to substantiate it. On the contrary, there are poofs that lead to the view that the *ṣalāh* of everyone in the congregation is valid [behind the Imam] who does not commit anything that would nullify his *ṣalāh*. The *ṣalāh* of the congregation is connected to the *ṣalah* of the Imam in only one respect: the obligation to follow the Imam. It does not mean that the correctness and incorrectness of the utterances and actions of the Imam extend to the *ṣalāh* of the congregation." See *al-Mukhtārāt al-Jaliyyah*, pg. 33.

[117] The Shaykh said elsewhere, "Crying during *ṣalāh* does not invalidate it regardless of the reason, whether any sound becomes distinct or not, and whether it is done for a need or not. This is because there is nothing in the *sharī'ah* that makes it prohibited. Additionally, it cannot be compared to normal speech, and so dealt accordingly. Another basis for this view is offered by the *hadith* reported by 'Ali, 'When offering the *ṣalāh* he would cry.'" The Shaykh further said, "To speak forgetfully after the *salām* for some important consideration or without reason does not invalidate the *ṣalāh*. Similarly, speaking during the *ṣalāh* due to forgetfulness or ignorance does not invalidate it. This is based on the *ḥadīth* of the two-handed person and the *hadīth* of Mu'āwiyah b. al-Ḥakam." See *al-Mukhtārāt al-Jaliyyah*, pg. 34.

Additionally, the Shaykh said, "Eating and drinking invalidates the *ṣalāh* except if the quantity is insignificant or it is done out of ignorance or forgetfulness." See *Nūr al-Baṣā'ir*, pg. 17.

[118] This is either prohibited or disliked (*makrūh*) if it is slight and done without a compelling reason. However, if it is slight, but done due to a need, or it is significant and done because of compulsion, then it remains neutral and so is allowed. At time it becomes obligatory to do so, for example during a *ṣalāh* that is associated with fear, so the worshipper may need to move to different positions in the prayer, and so is the case during a battle. Another example is to move during the prayer while in congregation to establish the rows. This has been clarified by the Shaykh in his book *al-Qawā'id wa'l-Furūq*, pg. 138.

without which the prayer cannot be completed, while in the other cases he would have done that which is forbidden during the prayer.

On the other hand, the following actions are disliked during *ṣalāh*:

- Movements during *ṣalāh*. The Prophet was asked about moving around in *ṣalāh* to which he said,

  هُوَ اخْتِلاَسٌ يَخْتَلِسُهُ الشَّيْطَانُ مِنْ صَلاَةِ الْعَبْدِ.

  "It is an embezzlement, which Satan misappropriates from the *ṣalāh* of a worshiper."[119]

- Fidgeting around.
- Placing the hands on the waist.
- Intertwining the fingers.
- Cracking the knuckles.
- Squatting like a dog in prayer.[120]
- To face [something] which would draw ones attention.
- Entering the prayer while the heart is busy fighting off the need to answer the call of nature, or when food is served. The Prophet said,

  لاَ صَلاَةَ بِحَضْرَةِ الطَّعَامِ، وَلاَ هُوَ يُدَافِعُهُ الأَخْبَثَانِ.

  "There is no *ṣalāh* when food is present and when one has to answer the call of nature."[121]

- The Messenger of Allah prohibited men from resting the forearms on the ground during *sujūd*.[122]

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[119] Bukhārī, no. 2/234.

[120] *Iqʿā'* (squatting) has been interpreted in two ways: 1) it is to make the feet touch the earth, keeping the calves raised and placing the hands on the ground for support. This is *makrūh* (disliked) according to the majority of the scholars. However, the Malikis consider it to be prohibited (*harām*), but according to them it does not invalidate the *ṣalāh* 2) it means to place the feet behind and place the hands on the ground. This again is *makrūh* according to the majority of the scholars. However, the Shāfi'is believe that this is *sunnah* during the position that is assumed between the two prostrations. They base their view on a narration that appears in the *Ṣaḥīḥ* of Imam Muslim. Imam Aḥmad b. Ḥanbal has been reported to have said, "I do not practice it, nor do I censure those who do." He added that the Abdullahs (referring to 'Abdullah b. Mas'ud, 'Abdullah b. 'Umar, 'Abdullah b. Zubayr, and 'Abdullah b. Abbas) would do that

[121] Muslim, no. 560.

[122] See Bukhārī, 2/301; Muslim, no. 493.

-Chapter-
Ṣalāh al-Taṭawwu' (Voluntary Prayer)

The most emphasized of them are:

- The *ṣalah al-kusūf* (the eclipse prayer),[123] which the Prophet performed and ordered to be performed, is prayed according to the description found in the *ḥadīth* of 'Ā'ishah,

  أَنَّ النَّبِيَّ صلّى الله عليه وسلّم جَهَرَ فِي صَلاَةِ الْخُسُوفِ بِقِرَاءَتِهِ فَصَلَّى أَرْبَعَ رَكَعَاتٍ فِي رَكْعَتَيْنِ وَأَرْبَعَ سَجَدَاتٍ.

  "The Prophet made the recitation of the eclipse *salāh* audibly. He made four *rukūs'* and four *sujūds* in two *rak'ahs*."[124]

- *Ṣalāh al-witr*, which is a *sunnah mu'ākidah* (an emphasized sunnah). The Prophet continuously performed the *witr* prayer, whether he was a resident or traveling, and urged the people to do so. [It's conditions are the following:]

  1. The least [number] of *rak'āhs* is one and the most are eleven.
  2. It's time is from *'ishā'* until the coming of *fajr*.
  3. It is best to be the last *ṣalāh* [of the day] as the Prophet said,

     اجْعَلُوا آخِرَ صَلاَتِكُمْ بِاللَّيْلِ وِتْرًا.

     "Make your last *ṣalāh* in the night *witr* (odd)."[125]

     He also said,

[123] The Shaykh says elsewhere, "Some scholars held the opinion that *salāh al-kusūf* is an obligation, because the Prophet offered it and asked the people to do the same." See *al-Mukhtārāt*, pg. 53

[124] Bukhārī, 2/549; Muslim, no. 901. The Shaykh said elsewhere, "As for the attributes of the Prophetic *ṣalāh* that are in excess of these, then they are actually some confusions of some of the narrators as stated by Imam Aḥmad b. Ḥanbal, Imam Bukhārī, and others. See *al-Mukhtārāt al-Jaliyyah*, pg. 53.

[125] Bukhārī, 2/488; Muslim, no. 751.

مَنْ خَافَ أَنْ لَا يَقُومَ مِنْ آخِرِ اللَّيْلِ فَلْيُوتِرْ أَوَّلَهُ وَمَنْ طَمِعَ أَنْ يَقُومَ آخِرَهُ فَلْيُوتِرْ آخِرَ اللَّيْلِ فَإِنَّ صَلَاةَ آخِرِ اللَّيْلِ مَشْهُودَةٌ وَذَلِكَ أَفْضَلُ.

"Whoever fears that he will not stand in the last part of the night, let him pray *witr* in the early part of the night; whoever hopes to stand in the last part of the night, then let him pray *witr* at the last part of the night. The last *ṣalah* of the night is well attended [by the angels], and that is better."[126]

- *Ṣalāh al-Istisqā'* (prayer for rain) is a *sunnah* for the people who are being deprived of water.[127] It is performed similar to the *'Eid ṣalāh* in the desert. The following should be observed:

1. He goes out to the *ṣalāh* [with the people] in humility, [considering themselves] insignificant, and beseeching [Allah].
2. Two *rak'āhs* are prayed and one sermon is delivered.
3. Constantly repeating *istighfār* (asking Allah for forgiveness) and reciting verses [from the Qur'an] which contain the command to ask for forgiveness.
4. Persist in making *du'ā* (supplications), and not be impatient in wanting their supplication to be answered immediately.

Prior to performing it, the means that ward of evil and bring about mercy should be observed, such as:

1. Asking Allah for forgiveness (*istighfār*).
2. Repentance [to Allah].
3. Setting right any injustices [that have been committed].
4. Doing good to others.
5. As well as other means that Allah has made as a means for receiving His mercy and warding off evils. Allah knows best.

The following are the prohibited times in which all absolute voluntary *ṣalahs* are forbidden:[128]

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[126] Muslim, no. 755.

[127] Shaykh ibn al-'Aqīl said, "Also if the land is dry."

[128] The Shaykh has preferred the view that the optional *ṣalāh*, which is performed

1. From dawn and until the sun has risen to the height of a spear.[129]
2. From 'aṣr to *maghrib*.
3. When the sun is at its zenith until it descends. Allah knows best.

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due to a reason, is not prohibited if done at these times. An example is the prayer for *taḥiyyat al-masjid* (the prayer offered when one enters the mosque to greet it). Another example is when someone has already offered his prayer and then enters the mosque to find the people offering their *ṣalāh* at that time [in which the optional prayers are not allowed]. This is why in this place the author has used the words: absolute *nawāfil*. See *al-Mukhtārāt al-Jaliyyah*, pg. 37.

[129] The Shaykh has preferred the view that this prohibition relates to the early morning *ṣalāh* and not the actual dawn, as has been explicitly mentioned in the *ḥadīth* of Imam Muslim. Also, this prohibition does not relate to the time of *aṣr* but to the actual *aṣr* prayer, since the provision is based on the *ṣalāh* and not on the timing of that *ṣalāh*. See *al-Mukhtārāt al-Jaliyyah*, pg. 37.

-Chapter-
The Congregational (*Jamā'ah*) Prayer and the Imām

There are five congregational *ṣalāhs* that are obligatory upon each individual male, whether he is a resident or a traveler. The Prophet said,

وَلَقَدْ هَمَمْتُ أَنْ آمُرَ بِالصَّلاَةِ فَتُقَامَ ، ثُمَّ آمُرَ رَجُلاً فَيُصَلِّيَ بِالنَّاسِ ، ثُمَّ أَنْطَلِقَ مَعِي بِرِجَالٍ مَعَهُمْ حُزَمٌ الْحَطَبِ ، ثُمَّ أُخَالِفَ إِلَى قَوْمٍ لاَ يَشْهَدُونَ الصَّلاَةَ فَأُحَرِّقَ عَلَيْهِمْ بُيُوتَهُمْ بِالنَّارِ.

"I considered ordering the *salah* to be commenced, and then order someone to lead the people [in *ṣalāh*] while I go out with some people who have with them a bundle of firewood to the houses of those who did not attend the prayer in [congregation] and burn their houses over them with fire."[130]

The least number [for a congregation to be held] is an *imām* and a *mubtadī* (follower), and the larger the congregation, the more pleasing it is to Allah.[131] The Prophet said,

صَلاَةُ الْجَمَاعَةِ أَفْضَلُ مِنْ صَلاَةِ الْفَذِّ بِسَبْعٍ وَعِشْرِينَ دَرَجَةً.

"The congregational prayer is twenty seven times more praiseworthy than the prayer performed individually."[132]

The Prophet also said,

إِذَا صَلَّيْتُمَا فِي رِحَالِكُمَا ، ثُمَّ أَتَيْتُمَا مَسْجِدَ جَمَاعَةٍ ، فَصَلِّيَا مَعَهُمْ فَإِنَّهَا لَكُمَا نَافِلَةٌ.

"If you prayed in your homes and then came out and [found] a congregation at the mosque, then pray with them, for the prayer for you will be a supererogatory prayer."[133]

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[130] Bukhārī, 2/125; Muslim, no. 651.
[131] The Shaykh has declared sound the view that the Friday congregation in a more populated mosque is better in than one in an old mosque. See *al-Mukhtārāt al-Jaliyyah*, pg. 38.
[132] Bukhārī, 2/131; Muslim, no. 560.
[133] Abū Dāwūd, no. 575 & 576; al-Tirmidhī, no. 219, who called it *ṣaḥīḥ*; al-Nisā'ī, 2/112

On the authority of Abū Hurayrah, in *marfū'* form, that the Prophet said,

إِنَّمَا جُعِلَ الإِمَامُ لِيُؤْتَمَّ بِهِ، فَإِذَا كَبَّرَ فَكَبِّرُوا، وَإِذَا رَكَعَ فَارْكَعُوا، وَلاَ تَرْكَعُوا حَتَّى يَرْكَعَ، وَإِذَا قَالَ: سَمِعَ اللهُ لِمَنْ حَمِدَهُ، فَقُولُوا: اللَّهُمَّ رَبَّنَا لَكَ الْحَمْدُ، وَإِذَا سَجَدَ فَاسْجُدُوا، وَلاَ تَسْجُدُوا حَتَّى يَسْجُدَ. وَإِذَا صَلَّى قَاعِدًا فَصَلُّوا قُعُودًا أَجْمَعِينَ.

"The *imām* is meant to be followed.[134] If he makes the *takbīr*, then make the *takbīr* and do not make the *takbīr* until he does. If he bows, then bow and do not bow until he bows.[135] When he says, '*Sami' Allāhu liman ḥamida* (may Allah answer he who praises Him),' say, '*Rabana wa lakal hamd* (Our Lord to You belongs all praise).' If he prostrates then prostrate, and do not prostrate until he does. If he prays standing then pray standing and if he prays sitting then all of you pray sitting."[136]

The underline meaning of the above narration can be found in the two authentic books.[137] He also said,

يَؤُمُّ الْقَوْمَ أَقْرَؤُهُمْ لِكِتَابِ اللهِ، فَإِنْ كَانُوا فِي الْقِرَاءَةِ سَوَاءً فَأَعْلَمُهُمْ بِالسُّنَّةِ فَإِنْ كَانُوا فِي السُّنَّةِ سَوَاءً فَأَقْدَمُهُمْ هِجْرَةً، فَإِنْ كَانُوا فِي الْهِجْرَةِ سَوَاءً فَأَقْدَمُهُمْ سِلْمًا، وَلاَ يَؤُمَّنَّ الرَّجُلُ الرَّجُلَ فِي سُلْطَانِهِ وَلاَ يَقْعُدْ فِي بَيْتِهِ عَلَى تَكْرِمَتِهِ إِلاَّ بِإِذْنِهِ.

"The one who has the most knowledge of the Book of Allah should lead the people [in prayer]. If they are equal in this regards, then

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[134] The Shaykh preferred the view that it is permissible for a person to offer his obligatory prayer behind an *imām* who is offering an optional prayer, and is supported by the story of Mu'ādh. He also considered it permissible for a child to lead the people in an obligatory or optional *ṣalāh*, as confirmed by the story of 'Amr b. Salimah al-Jaramī. See *al-Mukhtārāt al-Jalliyyah*, pg. 44.

[135] The Shaykh said elsewhere, "Intentionally going ahead of the *imām* [in an action of the prayer] invalidates the *ṣalah* if the one committing it knows the injunction and is aware of what he is doing. It makes no difference whether he went ahead one or two steps [in the prayer], and whether it was the *imām* who got him [back] or he himself returned to the proper sequence." See *al-Mukhtārāt al-Jalliyyah*, pg. 40.

[136] Abū Dāwūd, no. 603. The Shaykh affirmed the soundness of the prayer behind an *imām* who is unable to perfectly offer any of the foundational pillars of the *ṣalah* or its necessary conditions, provided that he tries his best in that regard. This is true of the *imām* of a tribe, a town, or others, and regardless of the issue whether the congregation is disabled like him or not. See *al-Mukhtārāt al-Jalliyyah*, pg. 42.

[137] See Bukhārī, no. 2/173; Muslim, no. 411.

the one who is most knowledgeable of them in the *Sunnah*. If they are equal in this regards, then the one whose migration was earlier. If they are equal in migration, then the first to accept Islam or the oldest.[138] Let him not sit in the place of the owner of the house [in order to lead him in prayer] without his permission."[139]

Additionally, it is important that:

- The *imām* is in front [of the congregation],
- the congregation be lined up close together, and
- they should complete the first [row] and then the subsequent ones.

Whoever prays behind the row [by himself] without any excuse must repeat his prayer. Ibn Abās said,

صَلَّيْتُ مَعَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ذَاتَ لَيْلَةٍ فَقُمْتُ عَنْ يَسَارِهِ فَأَخَذَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِرَأْسِي مِنْ وَرَائِي فَجَعَلَنِي عَنْ يَمِينِهِ.

"I prayed one night with the Prophet and I stood on his left, so he took a hold of my head from behind me and placed me to his right."[140]

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[138] The Shaykh said elsewhere, "The more conscious a person is of Allah and the more devoted he is in his worship, then he should be given preference in leading others in the *ṣalāh* over someone who enjoys a higher lineage; rather, he is also given preference over the one who is older than him. The age factor is considered only when both the older and the younger person are equal in all other respects.. The *fāsiq* (evil doer) can also lead others in the *ṣalāh* regardless if his *fisq* relates to his statements—example being an innovation—or his actions. We base this on the following Prophetic narration concerning the oppressive rulers, 'They would lead you in the *ṣalāh*. If they are right in what they do, then its merit will go to you and to them. However, if they are wrong, then the merit goes to you and the wrong to them.' Another basis for the view is that the personal *ṣalāh* of the *fāsiq* is sound in itself, and so makes his leadership in the prayer for others valid as well This was the practice of the first generations of the Muslim community, and we even find some of the scholars, such as Shaykh al-Islam [ibn Taymiyyah] and others, preferring the view that separating from the evil rulers and praying the *ṣalāh* in seclusion is the way of the innovators and the *Rawāfiḍ* (extremist Shias). To hold the view [of separation] fosters schism. The truth that may not be contested in this matter is that *ṣalah* is like jihad. The believers have to offer the *ṣalāh* behind the pious or impious." The Shaykh has dealt with issue extensively. See *al-Mukhtārat al-Jaliyyah*, pg. 42.

[139] Muslim, no. 673.

[140] Bukhārī, 3/192, 11/116; Muslim, no. 763. The Shaykh said elsewhere, "To stand on the right side of the *imām* in the congregation is a stressed *sunnah*. It is not obligatory,

The Prophet said,

إِذَا سَمِعْتُمُ الْإِقَامَةَ فَامْشُوا إِلَى الصَّلَاةِ وَعَلَيْكُمْ بِالسَّكِينَةِ وَالْوَقَارِ وَلَا تُسْرِعُوا فَمَا أَدْرَكْتُمْ فَصَلُّوا وَمَا فَاتَكُمْ فَأَتِمُّوا.

"When you hear the *iqamah* (call to start the prayer), then walk to the *ṣalāh* with calmness and tranquility, and do not hurry. Whatever you catch [of the *ṣalah*], pray it and whatever you missed, make it up."[141]

Al-Tirmidhī has,

إِذَا أَتَى أَحَدُكُمُ الصَّلَاةَ وَالْإِمَامُ عَلَى حَالٍ، فَلْيَصْنَعْ كَمَا يَصْنَعُ الْإِمَامُ

"If anyone of you comes to the prayer and finds the *imān* in a position, then do what the *imām* is doing."[142]

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so its violation does not result in the invalidation of the *ṣalah*. As for the fact that the Prophet once moved ibn 'Abbās to his right side does not entail obligation, and it only entails preference and excellence for we see that he did not forbid him from this." See *al-Mukhtārāt al-Jaliyyah*, pg. 45

[141] Bukhāri, 2/390; Muslim, no. 602. The Shaykh said elsewhere, "The part that a late comer offers in the congregation is the first part of his *ṣalāh* and that which he completes after the congregation is the latter part." See *al-Mukhtarāt al-Jaliyyah*, pg. 39.

[142] Al-Tirmidhī, no. 591, and he said, "This is a *gharīb ḥadīth*, and we do not know any *muhaddith* (scholar of the Prophetic science), other than this one, who has attributed it to the Prophet. In this chain is a narrator, al-Hajjāj b. Arṭāt, who is *mudallis* (attributes the *ḥadith* to someone unreliable by using the name in such a way that it appears that he is attributing it to another person of the same name who is reliable) and he would use *'an'anah* (not expressly attributing the tradition to the source and use the term *'an fulān* (by such and such person) instead of saying so-and-so told, informed, or narrated to me. This leaves uncertainty."

-Chapter-
The Prayer of Those With an Excuse[143]

A sick person is pardoned from attending the congregational prayer.[144] If standing during the prayer may cause an aggravation of his sickness, then he can pray seating. If he is unable to pray seating, then he can pray lying on his side. All these are supported by the saying of the Prophet to ʿImrān b. Ḥusayn,

صَلِّ قَائِمًا ، فَإِنْ لَمْ تَسْتَطِعْ فَقَاعِدًا ، فَإِنْ لَمْ تَسْتَطِعْ فَعَلَى جَنْبٍ

> "Pray while standing; if you are unable, then pray sitting; if you are unable to even do that, then pray on your side."[145]

If it becomes difficult for him to make each of the individual *ṣalāhs* during their prescribed times, then he can combine *ẓuhr* and *ʿaṣr*, and the two evening prayers, *maghrib* and *ʿishā'*.

It is permissible for a traveler to combine prayers, and it is *sunnah* for him to shorten the prayers that have four units to two units.[146] He

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[143] They include the sick, the traveler, and the one in fear. See *Nūr al-Baṣāir*, pg. 19

[144] The Shaykh has stated that if a sick person is able to perform his *ṣalah* standing but doing so alone, and is unable to stand and pray while in congregation, but is forced to sit, then in this case he should still attend the congregation and pray while sitting. This is because it is more preferable to join in the congregation as it carries with it such wisdoms that are unmatched. See *al-Mukhtārāt al-Jaliyyah*, pg. 46.

[145] Bukhārī, 2/587. The Shaykh has said elsewhere that there is no other authentic narration that is ascribed to the Prophet concerning the *ṣalāh* of the sick person except this one. As for the one that mentions *ṣalāh* by gesturing with the eyes and the heart, it is not authentic. The implied meaning of this tradition is that the last level of obligation in praying by gestures ends at praying while lying down on one's side. This is the view opted by the Shaykh. He has said that if a person does not find it possible to pray while lying on his side, then he should lie while placing a pillow under the upper portion of his body to raise it and face and turn his feet to the *Qiblah* and gesture to show bowing and prostrations. If that is not possible, then he should use his eyes; if that is not possible, then he may pray with his heart. See *al-Mukhtārāt al-Jaliyyah*, pg. 46 and *Nūr al-Baṣāir*, pg. 19.

[146] The Shaykh says elsewhere, "The concessions for the *ṣalāh* during a journey are dependent on the presence of the reality of the journey, something that makes a journey a journey. It is not dependent on a certain distance as there is no authentic source to obtain the sound basis for the specification." He also held the opinion that if a traveler stops at a place where he does not intend to stay for long, then he is still considered a traveler even if he intends to remain there for more than four days. He also held the opinion that a traveler enjoys the concessions even if he is not directed toward a

is also permitted to break his fast during Ramaḍan.

It is permissible to perform *ṣalat al khawf* (fear prayer) in any manner observed by the Prophet, which includes the narration of Ṣāliḥ b. Khawwāt on the authority of those who prayed *ṣalat al-khawf* with Prophet at the Battle of al Riqā'.[147] One group prayed with him while another group faced the enemy. He prayed one *rak'āh* with the ones who were with him, and then remained standing while they completed their prayer. They then left and lined up to face the enemy, while the other group [who were originally facing the enemy] came and prayed with him the remaining *rak'āh*. He then remained seated while they completed their prayer and then he made *taslīm* with them.[148]

If the fear intensifies, then they can perform the *ṣalāh* while walking or riding, facing the direction of the Qiblah or anywhere else, and making gestures with his head for bowing and prostration. Similarly, anyone who fears for himself, prays according to his ability and does all that he can to get away [from the enemy] and so forth. The Prophet said,

إِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ.

"If I order you with a command, then do it as much as you can."[149]

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particular destination and is just wandering or lost. Additionally, it also affirms that the traveler does not necessarily need to specifically make an intention for shortening the prayer or combining two prayers, rather, when the circumstances warrant the concession he proceeds to act accordingly, even without specifically making an intention. Similar is the case with the combination of two consecutive prayers: when the circumstances warrant it occurring, then the believer can use the concession right away. See *al-Mukhtārāt al-Jaliyyah*, pgs. 47-9.

[147] It is a battle that occurred in the 5 AH in the Najd territory of Ghaṭfān. It is called Dhāt al-Riqā' because the believers were barefoot, which cause their feet to become injured and they wrapped rags around them.

[148] Bukhārī, 7/421; Muslim, no. 842.

[149] Bukhārī, 13/251; Muslim, no. 1337.

-Chapter-
The Friday (Jumu'ah) Prayer

Whoever is obligated to attend the congregational prayer is obligated to attend the Friday prayer if he is a resident.[150] The conditions of the Friday prayer are the following:

1. Performance at it's due time.[151]
2. Performed in a village [or anything greater].[152]
3. It be preceded by the two sermons.

It is reported on the authority of Jābir that,

كَانَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِذَا خَطَبَ: وَعَلاَ صَوْتُهُ ، وَاشْتَدَّ غَضَبُهُ حَتَّى كَأَنَّهُ مُنْذِرُ جَيْشٍ يَقُولُ : «صَبَّحَكُمْ وَمَسَّاكُمْ». وَيَقُولُ: «أَمَّا بَعْدُ ، فَإِنَّ خَيْرَ الْحَدِيثِ كِتَابُ اللهِ ، وَخَيْرُ الْهُدَى هُدَى مُحَمَّدٍ ، وَشَرُّ الأُمُورِ مُحْدَثَاتُهَا ، وَكُلُّ بِدْعَةٍ ضَلاَلَةٌ».

"The Prophet would give the sermon and his eyes would turn red, his voice would rise, his anger would intensify to the point that he was like a warner, warning an army [of a coming attack] saying, 'They will surely attack in the morning; they will surely attack in the evening!' He would also say, 'The best speech is the speech of Allah and the best guidance is the guidance of Muhammad. The

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[150] The Shaykh clarified elsewhere, "The correct view is that the Friday congregation is obligatory even for the slaves, as the relevant textual commands are general and cover them as well. There is no argument in the sources that can be pleaded to in order to restrict the command to only the free to the exception of the slaves. The *hadith*, 'Friday Congregation is a necessary obligation upon every believer except the following four...' is weak. The truth is that the slaves share the same obligations as the free do in physical rituals of worship where no monetary contribution is required." See *al-Mukhtārāt al-Jaliyyah*, pg. 50.

[151] The Shaykh says, "The timing for the Friday Prayer begins when the sun begins to descent [from its zenith] and the shadow is a bow's distance, and continues until the end of the *dhuhr* prayer. When the times expires and one cannot join the congregation or joins the prayer after the believers in congregation have offered one *raka'ah*, then it is obligatory for the delinquent to offer the *dhuhr* prayer as a makeup." See *Nur al-Baṣā'ir*, pg. 20.

[152] The Shaykh held the opinion that none of the traditions, which lead to the view that the Friday and 'Eid congregations cannot be valid unless there are forty worshippers present, are sound. See *al-Mukhtārāt al-Jaliyyah*, pg. 50.

worst of matters are the [newly] invented matters [in the religion] and every invented matter is misguidance."[153]

Another narration has,

كَانَتْ خُطْبَةُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَوْمَ الْجُمُعَةِ: يَحْمَدُ اللهَ وَيُثْنِي عَلَيْهِ ، ثُمَّ يَقُولُ عَلَى إِثْرِ ذَلِكَ ، وَقَدْ عَلاَ صَوْتُهُ...

"The Prophet, during the Friday sermon, would praise and exalt Allah, then he would raise his voice and say, '...'"

In another wording,

مَنْ يَهْدِ اللهُ فَلا مُضِلَّ لَهُ ، وَمَنْ يُضْلِلْ فَلا هَادِيَ لَهُ

"Whoever Allah guides none can misguide and whoever He misguides none can guide."[154]

The Prophet would say,

إِنَّ طُولَ صَلاَةِ الرَّجُلِ وَقِصَرَ خُطْبَتِهِ مَئِنَّةٌ مِنْ فِقْهِهِ.

"The length of a person's prayer and the shortness of his sermon are truly an indication of his understanding."[155]

[The sermon should be delivered in the following manner:]

1. It is liked that the sermon be delivered from a pulpit.
2. The *imām* ascends the pulpit and faces the people and gives them the salutations.
3. He then sits down and the *mu'adhīn* (caller of the prayer) gives the *adhān* (the call to prayer).
4. Then the *imām* stands and delivers the sermon.[156]

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[153] Muslim, no. 867.
[154] Muslim, no. 867.
[155] Muslim, no. 869.
[156] The Shaykh said elsewhere, "Some of the scholars have considered that both the sermons must contain praise for the Prophet, invocation of Allah's blessing on him, and a verse of the Holy Qur'an. However, there is no valid argument supporting this view. It suffices the *imam* to deliver a sermon that fulfills the objective of the sermon and offers advice. The conditions mentioned by the upholders of this view cause perfection and excellence in the sermon and is not to be taken as an essential part of the validity of the sermon." See *al-Mukhtarāt al-Jaliyyah*, pg. 51.

5. He then sits.
6. He then stands to give the second sermon.
7. [When he is finished,] the *iqāmah* is pronunced.
8. He leads the people in two *rak'āhs* in an audible voice.
9. In the first *rak'ah* he recites *Surah al A'la* and in the second [he recites] *Surah al-Ghāsiyah*, or [he may recite] in the first *rak'āh Sūrah al Jumu'ah* and in the second *Surah al-Munafiqūn*.

It is preferred for those who go for the [Friday] prayer to due the following:

1. Take a bath
2. Apply fragrance.
3. Wear their best clothes.
4. Come to Jumu'ah early.
5. [Remain silent until after the *salāh*.] It is related in the two authentic books [Bukhārī and Muslim],

   إِذَا قُلْتَ لِصَاحِبِكَ: يَوْمَ الْجُمُعَةِ أَنْصِتْ وَالْإِمَامُ يَخْطُبُ ، فَقَدْ لَغَوْتَ.

   "If you were to say to the one next to you, 'be quite' during the Friday sermon, while the *imam* is speaking, you will have invalidated [your reward]."[157]

6. [Pray two *rak'āhs* of entering the masjid.]

   دَخَلَ رَجُلٌ يَوْمَ الْجُمُعَةِ وَالنَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَخْطُبُ ، فَقَالَ: « أَصَلَّيْتَ؟» قَالَ: لَا ، قَالَ: « قُمْ فَصَلِّ رَكْعَتَيْنِ ».

   A man entered the masjid on Friday while the Prophet was giving the sermon. The Prophet said, "Did you pray?" The man replied, "No." So he said, "Stand and pray two *rak'āhs*."[158]

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[157] Bukhārī, 2/407; Muslim, no. 850.
[158] Bukhārī, 2/412; Muslim, no. 875.

-CHAPTER-
THE TWO 'EID (FESTIVAL) PRAYERS[159]

The Prophet commanded all the Muslims to go out and attend the 'Eid prayer, even the adolescent girls[160] and menstruating women, to witness the good and to supplicate. However, the menstruating woman should remain away from the *muṣalah* (the prayer area).[161]

The timing [for the 'Eid prayer] is after the sun has risen to the height of a spear and until noon.[162] The *sunnah* is to do the following:

- Perform it in an open area.
- To hasten [the prayer] if it is 'Eid al-Aḍhah (Festival after Ḥajj).
- To delay it if it is 'Eid al-Fitr (Festival after Ramadan).
- To eat something in the morning—especially on the day of 'Eid al-Fiṭr—before prayer, with an odd number of dates.
- To take a bath and apply fragrance.
- Wear the best clothes.
- To go to the prayer from one direction and return from another.
- Pray two *rak'ahs* without *adhān* or *iqāmah*.
- Say seven *takbirs* in the first *rak'āh* including the *takbīrat al-iḥram*.
- In the second *rak'āh* he says five *takbirs*, excluding the *takbīrat al-qiyām* (saying *Allāhu Akbar* during the standing).
- Raising the hands each time the *takbīr* is said.
- Praising Allah and sending salutations and blessings upon the Prophet between each *takbīr*.
- Reciting *Sūrah al-Fātiḥah* and another *sūrah* audibly in both *rak'ahs*.

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159 The Shaykh said, "Both the 'Eid congregations are an obligations of the first order. The Prophet commanded the young girls and the women to attend, but he commanded those who were menstruating to remain away from the prayer place. Had this congregation had no preference over a lot of the other obligations, then he would not have stressed it to this level." See *al-Mukhtārāt al-Jaliyyah*, pg. 52.

160 *'Awātiq* is the plural of *'ātiq* which refers to a physically mature young girl or is about to become one.

161 Bukhārī, 1/466; Muslim, no. 890.

162 The Shaykh said that if the 'Eid is missed then it is made up by offering it the next day or afterwards during its designated time. See *Nūr al-Baṣā'ir*, pg. 21.

- After the *taslīm*, the *imām* should deliver two sermons,[163] similar to the two Friday sermons.[164] However, he should remind [the people] of the rulings that are suitable for that time.

The following acts are recommended:

1. Unrestricted *takbīrs*: During the night following the two 'Eids and on the first 10 days of Dhul Ḥijjah.
2. Restrictive *takbīrs*: Following the obligatory daily prayers, starting from the *fajr* prayer on the day of 'Arafah to the *'aṣr* prayer on the last *Tashrīq* days, "*Allahu Akbar, Allāhu Akbar, Allāhu Akbar, Lā ilaha ila Allāh, Allāhu Akbar, Allāhu Akbar, wa lilahil hamd* (Allah is Great, Allah is Great, Allah is Great, none has the right to be worshipped except Allah, Allah is Great, Allah is Great, and to Him is all praise)."

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[163] The Shaykh said, "The sound view is that it is desirable to begin a sermon, whether it is on Friday, 'Eid, or any other congregation, with exalting Allah, as there are no sound *ḥadīths* that confirm that the Prophet ever began a sermon without it." See *al-Mukhtārāt al-Jaliyyah*, pg. 52.

[164] The Shaykh said, "I am inclined to consider absolute *takbīr* as desirable during the days of *tashrīq* for the following reasons: 1) Allah has commanded to specify these days for His remembrance, 2) the Prophet said, 'The days of *tashrīq* are days of eating, drinking, and remembering Allah, and 3) 'Umar would raise his voice and say *takbīr* in his tent in Minā. Those around him would also join him and Minā would reverberate and shake with the cries of *takbīr*." See *al-Mukhtārāt al-Jaliyyah*, pg. 52.

Book of Funerals
(*Kitāb al-Janāzah*)

The Prophet said,

لَقِّنُوا مَوْتَاكُمْ لا إِلَهَ إِلا اللهُ.

"Instruct your dying to say *lā ılaha ilā Allāh* (none has the right to be worhsipped except Allah)."[165]

Also,

اقْرَؤُوا عَلَى مَوْتَاكُمْ يس.

"Recite over your dyıng [*Sūrah*] *Yā Sīn*."[166]

Preparing the dead [for burial] is done by the following:

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[165] Muslım, no. 916. The Shaykh has explained that visiting the sick is a stressed religious recommendation. To visit a close or distant relative is recommended, but he should neither stay long with the sick person nor bombard him with questions; rather, his condition should be considered. When he nears death his mouth should be wetted with water and he should be encouraged to utter the declaration of faith. It is a *sunnah* to close the eyes of the dead body and his joints should be loosened. The dead must be brought to the burial place as soon as possible after he has been washed and shrouded. All these things are a collective obligations. See *Nūr al-Baṣā'ir*, pg. 21.

[166] Aḥmad, 5/27; Abū Dāwūd, no. 3212; ibn Mājah, no. 1448; ibn Ḥibbān, no. 720; al-Ḥākim, 1/565.

1. washing him,
2. shrouding him,
3. praying over him,
4. carrying him, and
5. burying him

All these are a collective obligation, if it is done by some then the obligation is lifted from the rest, if not then the sin is on everyone. The Prophet said,

أَسْرِعُوا بِالْجَنَازَةِ فَإِنْ تَكُ صَالِحَةً فَخَيْرٌ تُقَدِّمُونَهَا وَإِنْ يَكُ سِوَى ذَلِكَ فَشَرٌّ تَضَعُونَهُ عَنْ رِقَابِكُمْ.

"Hasten with the funeral, for if [the person] was righteous, then you are sending him to good, and if he was otherwise, then you are removing something evil from your necks."[167]

Also,

نَفْسُ الْمُؤْمِنِ مُعَلَّقَةٌ بِدَيْنِهِ حَتَّى يُقْضَى عَنْهُ.

"The soul of the believer is tied to his debt until it is paid on his behalf."[168]

Concerning the shroud, the cloth should cover the entire body, with the exception of the head for the male and the face for the female.[169]

As for the manner of the prayer over the dead, it as follows:

- To make *takbīr* and recite *Sūrah al-Fātiḥah*.
- To make *takbīr* and sends salutations and blessings on the Prophet.
- To make *takbīr* and make supplication for the deceased by saying,

[167] Bukhārī, 3/182; Muslim, no. 944.

[168] Aḥmad, 2/440, 475, 508; al-Tirmidhī, no. 1078 & 1079; ibn Majah, no. 2413; al-Dārami, 2/262. al-Ḥākim labeled it as authentic based on the criterior of Bukhārī and Muslim.

[169] The Shaykh states elsewhere, "It is more appropriate for the person who has good knowledge of the religious rulings governing the washing of the dead body and is known for keeping the secrets to take up this responsibility. After washing the dead body, it is covered with three simple white sheets of cloth. Each cloth is wrapped around the body. Musk, or something similar, is then applied to the external part of the body. A believing woman is shrouded with a lower garment, an upper garment or head covering, and two other sheets of cloth." See *Nūr al-Baṣā'ir*, pg. 22.

اللَّهُمَّ اغْفِرْ لِحَيِّنَا وَمَيِّتِنَا، وَشَاهِدِنَا وَغَائِبِنَا، وَذَكَرِنَا وَأُنْثَانَا، وَصَغِيرِنَا وَكَبِيرِنَا، اللَّهُمَّ مَنْ أَحْيَيْتَهُ مِنَّا فَأَحْيِهِ عَلَى الإِسْلَامِ ، وَمَنْ تَوَفَّيْتَهُ فَتَوَفَّهُ عَلَى الإِيمَانِ.

"*Allahumaghfirli ḥayinā wa mayitinā wa ṣhāhidinā wa ghā'ibinā wa dhikarinā wa unthānā wa ṣaghīrinā wa kabīrinā. Allahuma man aḥyaytahu minnā fa'ahyihi 'alall islamī wa man tawafaytahu 'alall imān* (Allah, forgive those of us who are alive and those of us who are dead, those that present and those that absent, our young and our old, our males and our females. Allah, whom amonst us You keep alive, then let that life be upon Islam, and whom amongst us You take unto Yourself, then let that be upon faith)."[170]

[He also says,]

اللَّهُمَّ اغْفِرْ لَهُ، وَارْحَمْهُ، وَعَافِهِ، وَاعْفُ عَنْهُ، وَأَكْرِمْ نُزُلَهُ وَوَسِّعْ مُدْخَلَهُ، وَاغْسِلْهُ بِالْمَاءِ وَالثَّلْجِ وَالْبَرَدِ، وَنَقِّهِ مِنَ الذُّنُوبِ كَمَا يُنَقَّى الثَّوْبُ الأَبْيَضُ مِنَ الدَّنَسِ، اللَّهُمَّ لاَ تَحْرِمْنَا أَجْرَهُ، وَلاَ تَفْتِنَّا بَعْدَهُ، وَاغْفِرْ لَنَا وَلَهُ.

Allāhum magh fir lahu, warḥāmhu, wa 'āfihi, wā'fu 'anhu, wa akrim nuzulahu wa wassi' mudkhalahu wāgsilhu bil mā'i wāt thalji wāl baradi, wa naqqihi mindh-dhunūbi kamā yunaqqath thawbal ābyaḍ mi nad-danasi. Allāhuma lā taḥrimnā ajrahu, wa lā taftinā ba'dahu, wāghfirlanā walahu (Allah, forgive him and have mercy on him, excuse him and pardon him, and make honorable his reception and make his entry wide. Cleanse him with water, snow, and hail, and purify him of sins as a white garment is purified from filth. Allah do not deprive us of his reward and do not put us to trial after him, and forgive us and forgive him)."[171]

If the deceased is a child, then a person should supplicate after the general supplication,

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[170] Aḥmad, 2/368; Abū Dāwūd, no. 3201; al-Tirmidhī, no. 1024; ibn Majah, no. 1498, al-Ḥakim, 1/358, who called it authentic based on the criterion of Bukhārī and Muslim.
[171] Muslim, no. 963.

اللَّهُمَّ اجْعَلْهُ فَرَطاً لِوَالِدَيْهِ، وذُخْراً، وَشَفِيْعاً مُجَاباً، اللَّهُمَّ ثَقِّلْ بِهِ مَوَازِيْنَهُمَا، وَأَعْظِمْ بِهِ أُجُورَهُمَا، وَاجْعَلْهُ فِي كَفَالَةِ إِبْرَاهِيْمَ، وَقِهِ بِرَحْمَتِكَ عَذَابَ الْجَحِيْم

"*Allauhuma ij'āl farṭan li wālidayhi wa dhukhiraan wash shafi'aan majaabaan. Allahuma thaqal bihi mawazieena huma, wa a'aẓaam bihi ajurohuma. Wa ij'aalhu fi kafaalti ibraheem waqhi birahmatika adhaab al jaheem.* (Allah, make him a source of salvation for his parents and a source of reward and treasure. Make him an intercessor, one whose intercession is accepted. Allah cause him to make their scales heavy with good deeds, and increase their rewards. Unite him with the righteous believers, place him under the care of Ibrāhīm, and protect him by Your mercy from the torment of Hell.)"[172]

- Then he makes the *takbīr* and the *taslīm*.

The Prophet said,

مَا مِنْ رَجُلٍ مُسْلِمٍ يَمُوتُ فَيَقُومُ عَلَى جَنَازَتِهِ أَرْبَعُونَ رَجُلاً لاَ يُشْرِكُونَ بِاللَّهِ شَيْئًا إِلاَّ شَفَّعَهُمُ اللَّهُ فِيهِ.

"Whoever from amongst the Muslims dies and forty men, who do not associate any partners with Allah, offer his funeral prayer, then Allah will accept their intercession for him."[173]

He also said,

مَنْ شَهِدَ الْجَنَازَةَ حَتَّى يُصَلِّي عَلَيْهَا فَلَهُ قِيرَاطٌ وَمَنْ شَهِدَهَا حَتَّى تُدْفَنَ فَلَهُ قِيرَاطَانِ «. قِيلَ وَمَا الْقِيرَاطَانِ قَالَ » مِثْلُ الْجَبَلَيْنِ الْعَظِيمَيْنِ.

"Whoever witnesses a funeral and stays with it until he prays over the deceased, then for him will be a *qiraṭ* of gold. Whoever witnesses it and stays until the deceased is buried, then for him will be two *qirāṭ* of gold." It was asked, "What are two *qirāṭ*." He

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[172] This is a supplication mentioned by the jurists, such as ibn Qudāmah who recorded it in his *al-Mughnī*, and is not a *ḥadīth* that can be attributed to the Prophet.
[173] Muslim, no. 948.

said, "It is like two great mountains."[174]

[Concerning the grave,] the Prophet prohibited the following,

- plastering the graves,
- sitting on them, or
- build [something] over them.[175]

After the deceased is buried, the person should stop and,

اسْتَغْفِرُوا لأَخِيكُمْ وَسَلُوا لَهُ التَّثْبِيتَ فَإِنَّهُ الآنَ يُسْأَلُ

"Ask forgiveness for your brother, and ask for stability for him, for it is indeed asking for it now."[176]

It is recommended to offer condolences to the relatives of the deceased. The Prophet wept over a dead [child of his] and said regarding it, "It is certainly mercy."[177] However, he condemned the person who wails and the one who listens approvingly.[178]

The Prophet said,

زُورُوا الْقُبُورَ ؛ فَإِنَّهَا تُذَكِّرُكُمُ الآخِرَةَ.

"Visit the graves for they are a reminder of the hereafter."[179]

The one visiting the grave should say,

السَّلَامُ عَلَيْكُمْ أَهْلَ دَارِ قَوْمٍ مُؤْمِنِينَ ، وَإِنَّا إِنْ شَاءَ اللهُ بِكُمْ لَاحِقُونَ اللَّهُمَّ لَا تَحْرِمْنَا أَجْرَهُمْ ، وَلَا تَفْتِنَّا بَعْدَهُمْ ، وَاغْفِرْ لَنَا وَلَهُمْ ، نَسْأَلُ اللهَ لَنَا وَلَكُمُ الْعَافِيَةَ.

"As salāmu 'alaykum ahlul dār qaum mu'minin, wa innā inshā'Allāh bikom lā ḥuqūn. Allāhuma lā taḥrimnā ajrohum wa lā tafatnā ba'dahum,

[174] Bukhārī, 3/196; Muslim, no. 945.

[175] Muslim, no. 970. The Shaykh explained that erecting buildings over graves, cement over the tombs, perfuming them, sitting over them, and writing on them are all prohibited actions. Since the Prophet has warned about them, so they cannot be anything lesser than a complete prohibition. See *al-Mukhtārāt al-Jaliyyah*, pg. 54.

[176] Abū Dāwūd, no. 3221; al-Ḥākim, 1/370; al-Bayhaqī, 4/56. Al-Nawawī labeled it as *ḥasan in al-Adhkār*, pg. 147.

[177] Bukhārī, no. 3/173.

[178] Abū Dāwūd, no. 3128, who recorded this narration on the authority of Abū Sa'id. The *isnād* includes the name of 'Aṭiyah al-'Awfī, his son, and grandson, all of them are weak narrators. No other version of the narration is sound. See *Irwā' al-Ghalil*, pg. 769.

[179] Muslim, no. 977.

> *wagfirlanā wa lahum. Nas'āl Allāhulanā wa lakum'ul 'āfiyyah.*" (Peace be upon you all, inhabitants of this place from amongst the believers and the Muslims. Certainly we will, Allah-willing, join you. Allah, do not deprive us of their reward and do not cause us to stray after them. Forgive us and them. We supplicate to Allah to grant us wellbeing and to you)."[180]

Additionally, whoever does any good deed and caused a benefit to either a living or dead person, will receive the benefit for himself. Allah knows best.

[180] This supplication is composed of a number of traditions. For details see *Jami' al-Uṣūl*, 11/157.

Book of Prescribed Charity (*Kitāb al-Zakāh*)

It is an obligation on all those that are:

- Muslim,
- free, and
- possess wealth that has reached the *naṣb* (prescribed amount).

There is no *zakāh* on property that is held for less than a year (*ḥawl*), except for:

- That which is grown from the earth.
- What is subordinate to the original investment, such as that which exceeds the original [amount] or business profits, since their prescribed time for *zakāh* to become obligated is the same as that of the original amount.

Zakāh is obligatory on four categories:

1. grazing livestock (*sā'imah*), such cattle,
2. that which comes from the earth,
3. gold and silver [and anything that takes it place as currency], and

4. products for the purpose of sale (*'urud al-tijārah*).[181]

As for *zakāh* due on livestock,[182] the proof for it is the *ḥadīth* narrated by Anas that Abū Bakr wrote for him, "This is the amount from the prescribed charity that the Messenger of Allah enjoined on every Muslim, and which Allah ordained for His Messenger:

- On twenty four camels or less: for every five, a sheep.
- If they reach twenty-five to thirty-five, then one *bint makhād* (a one year old female camel) becomes due. If one is unavailable, then one *ibn labūn* (a two year old male camel).
- If they reach thirty-six to forty-five, then one *bint labūn* (a two year old female camel) is due.
- If their number reaches forty-six to sixty, then one *ḥiqqah* (a three year old female camel) fit for breeding is due.
- If their number reaches sixty-one to seventy-five, then one *jadh'ah* (a four year old she-camel) is due.
- If their number reaches seventy-six to ninety, two *bint labūn* are due.
- If their number reaches ninety-one to one hundred and twenty, then two *ḥiqqah* are due.
- If their number exceedes one hundred and twenty five, then for every forty, one *bint labūn* is due, while one *ḥiqqah* is due on each fifty.
- Whoever has only four camels, then no *zakāh* is due on them, unless their owner decides otherwise [to give it].

As for *zakāh* on sheep:

- If they are from those that graze naturally, then if their numbers

[181] The Shaykh said elsewhere that exchanging a *zakatable* thing with another *zakatable* thing does not render it exempt from *zakah*, regardless of the fact that the exchange is done in the same thing or a different thing. He also said that the basic thing that needs to be considered in ascertaining the obligation of *zakah* on an asset is that the asset be in the possession of the believer until the time of the payment of the *zakāh*. However, if it is lost or is used up, without evil intention, then the person is not obligated to pay *zakah* on it. He also concluded that it is permissible to move the collected *zakāh*, even if it is moved to a distance that allows the shorten of the prayer, unless it is done for a good purpose. See See *al-Mukhtārāt al-Jaliyyah*, pg. 56 & 58.

[182] *Al-Sā'imah* are animals that are left to graze for a year or more. *Al-Sawm* is to send the animals to a pasture where they graze.

are from forty to one hundred twenty, then one goat is due.
- If their numbers are from one hundred twenty to two hundred, then two goats are due.
- If their numbers are from two hundred to three hundred, then three goats are due.
- If their numbers are more than three hundred, then for every one hundred sheep an additional goat is due.
- If the grazing sheep are less than forty, then there no *zakāh* is due, unless the owner decides otherwise.
- Livestock that are separate cannot be joined, and those that are joined cannot be separated for fear of paying the *zakāh*.[183]
- If the livestock of different owners are mixed together, then their owners should settle amongst themselves the share that each must pay.[184]
- The owner must not give as *zakāh* an animal that is decrepit or one that possess some form of defect (*dhāt al-'uwār*).[185]

As for silver:

- For each two hundred *dirhams*, *zakāh* will be four tenths (2.5%). If the owner has one hundred and ninety, then no *zakāh* is due on it, except for what the owner wills.

[Substitution of Payment]

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[183] An example can be the following: Three herds of forty sheep each are owned by three different men. If *zakāh* is applied separately, then each person will give only a sheep for his own portion. If they are combined, then the obligation of *zakāh* on the whole would be no more than one sheep per person. As for an example of distribution of a herd that is co-owned then it is the following: Two individuals own a hundred and one sheep combined. Three sheep are to be paid in total as *zakāh*. However, if they separate the herd according to their ownership, then the maximum *zakāh* they will pay will be two sheep, one from each.

[184] The implication is that if the herd of two people are combined and the number of the animals reaches the amount for *zakāh*, then *zakah* will be applied as if they are owned by one person, and both men will be obligated to pay the amount of that *zakāh* according to the number of animals they own. If each of them owns twenty sheep, and the combined herd numbers forty, then one sheep will be paid in *zakāh*. One of them will give a sheep in *zakāh* and the worth of that particular sheep will also be assessed, and half of that value will be paid by the other person to the one who gives away the sheep from his herd. This is how *zakāh* will be applied to animals that are combined.

[185] *Dhāt al-'uwār* means blind according to one opinion and defective according to another.

- If a person is in possession of camels that have reached the number where a *jadh'ah* becomes due, but he has a *ḥiqqah*, then the *ḥaqqah* would be accepted accompanined with two goats, if it is possible, or twenty dirhams.
- If a person's camels reach the number where a *ḥaqqah* becomes due, and he has no *ḥaqqah* but has a *jadh'ah*, then it is accepted from him as *zakāh* and he would be given in return twenty dirhams, or two goats."[186]

It is reported in the *ḥadīth* of Mu'ādh that the Prophet ordered him to take for thirty cows, a *tabī'* (one year old calf), and for every fourty a *musinnah* (two year old calf). It is recorded by the authors of the *Sunan*.[187]

As for *zakāh* on money, it has already been mentioned that nothing is due on it unless the amount reaches one hundred dirhams, in which case four tenths (2.5%) becomes due.

Concerning *zakah* on what is grown from the earth, such as grains and fruits, it is the following: The Prophet said,

لَيْسَ فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ مِنَ التَّمْرِ صَدَقَةٌ.

"There is no *zakāh* on it unless it reaches five *wasaqs*."[188]

A *wasaq* is eqivalant to sixty *sā'* (appox. 180 kg). Therefore, the *nisab* for the obligation of *zakāh* on grains and fruits is three hundred *sā'*, equal to the *sā'* of the Prophet. The Prophet also said,

فِيمَا سَقَتِ السَّمَاءُ وَالْعُيُونُ أَوْ كَانَ عَثَرِيًّا الْعُشْرُ، وَفِيمَا سُقِيَ بِالنَّضْحِ نِصْفُ الْعُشْرِ.

"That which is [owed on land] irrigated by rain, springs, or trough[189] is a tenth (*'ushr*, i.e., 10%); while that which is irrigated privately is half of a tenth (i.e., 5%)."[190]

It is narrated on the authority of Sahl b. Abī Ḥathımah that the Prophet

[186] Bukhārī, 3/316-317.

[187] Abū Dāwūd, no. 1578; al-Tirmidhi, no. 623, who called it *ḥasan*; al-Nisā'ī, 5/26; ibn Mājah, no. 1803; al-Ḥākim, 1/398, who called it authentic based on the conditions of Bukhārī and Muslim.

[188] Bukhārī, 3/332; Muslim, no. 979.

[189] The Arabic word is *'atharī* which refers to that which takes water through its long roots and does not need to be watered. The word is a derivative of the verb *'athara* which means "he overpowered something". This type of vegetation is called *'athari* as it is able to get water without the help and effort of its owner.

[190] Bukhārī, 3/347.

commanded,

إذَا خَرَصْتُمْ فَخُذُوا وَدَعُوا الثُّلُثَ فَإِنْ لَمْ تَدَعُوا الثُّلُثَ فَدَعُوا الرُّبُعَ.

"When you estimate [the *zakāh*] then put a third aside, and if not a third then put a fourth."[191]

As for *'urūd at-tijārah* (business merchandise), which refers to any commodity obtained for the purpose of trading and gaining a profit, its value is estimated by the passing of a year (*hawl*) and its *zakāh* is given to the poor in the form of gold or silver[192] [or any monetary wealth] and it is obligated that it is quarter of a tenth (2.5%).

If someone is a creditor who has a loan due to him from somone from whom he has no hope of collecting it, such as the debt of a procrastinator or an insolvent person who cannot fulfill the obligation on him, then no *zakāh* will be due on it.[193] However, [if it is collectable], then *zakāh* is due on it.

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[191] Abū Dāwud, no 1605; al-Tirmidhī, no. 643, al-Nisā'i, 5/42, al-Ḥākim, 1/402, who said that it has an authentic chain of transmitters. Ibn Hajar said in *al-Takhlīṣ*, "Aḥmad b. Ḥanbal and the authors of the three Sunan (al-Nisā'i, Abū Dāwūd, and ibn Mājah), Ibn Hibān, and al-Ḥākim have recorded this report on the authority of ibn Abī Ḥathamah. The *isnād* (chain) of this narration includes 'Abd al Rahmān b. Mas'ūd b Dīnār who narrates from Sahl Concerning him al Bazzāz said, 'This narration has been reported by him alone.' Ibn al-Qaṭṭān said, 'His reliability or otherwise is unknown ' Al-Ḥākim said, 'There is another corroborative *ḥadīth* which al Bazzāz narrated through Ibn Lahiyyah.' There is another corroborative *hadīth* whose soundness of the *isnād* is agreed upon. This narration relates that 'Umar judged by it. The meaning of the *ḥadīth* is that it is upon the *zakāh* collectors, whom the ruler sends, to leave behind a third or fourth of the *zakāh*, as they think is wise, with the farmers and the cultivators so that they themselves can distribute it among their relatives, neighbors, and others."

[192] The Shaykh said elsewhere, "The correct view is that it is allowable to pay *zakah* on the trade merchandize from it, since the *zakāh* is meant to offer convenience. Therefore, the owner of a thing on which *zakāh* is obligatory is not forced to pay *zakāh* on it from other means. This is similar to the allowance of paying *zakāh* by assessing the worth of a thing on which *zakah* is due if an expedience demands it from the angle of the payer. The rent from an immovable property which is rented is subject to *zakāh*, but the property itself is not. The condition of an expiry of a year is not applicable to rents and wages; rather, they are dealt like the benefits of trade and produce." See *al-Mukhtārāt al-Jalliyyah*, pg. 56.

Similarly, the Shaykh has clarified that the home of a believer, and other immovable properties, such as floors, utensils, and animals (except for camels, cows, and sheep) are not subject to *zakāh* unless they are used as trade merchandise, and so the zakāh will be applied on them as trade merchandise. See *Nūr al-Basā'ir*, pg. 25

[193] The Shaykh has affirmed that *zakāh* on this kind of wealth does not become obligatory until the person takes them into his possession and a year passes after the possession. See *al-Mukhtārāt al-Jalliyyah*, pg. 55.

It is obligatory to give the *zakāh* from a person's [average quality] wealth, and the obligation is not fulfilled by something that is of inferior quality. Conversely, it is not obligated to give from the best wealth either, except if the owner so desires.

[Concerning, buried treasure], it is reported in a *marfu' ḥadīth* from Abu Hurayrah that [the Prophet said],

فِى الرِّكَازِ الْخُمُسُ.

"On buried treasure there is a fifth."[194]

[194] Bukhārī, 3/364; Muslim, no. 1710.

-Chapter-
Zakāh al-Fitr
(The Charity for the Completion of Ramaḍan)

Ibn 'Umar said,

> فَرَضَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ زَكَاةَ الْفِطْرِ صَاعًا مِنْ تَمْرٍ أَوْ صَاعًا مِنْ شَعِيرٍ عَلَى الْعَبْدِ وَالْحُرِّ وَالذَّكَرِ وَالْأُنْثَى وَالصَّغِيرِ وَالْكَبِيرِ مِنَ الْمُسْلِمِينَ وَأَمَرَ بِهَا أَنْ تُؤَدَّى قَبْلَ خُرُوجِ النَّاسِ إِلَى الصَّلَاةِ
>
> "The Messenger of Allah made obligatory *zakāh al-fitr*: á *sā*‘[195] of dates or a *sā*‘ of grains on the slave and the free, the male and the female, the young and the old, from the Muslims. He ordered it to be payed before the people go out for the ['Eid] *salāh*."[196]

It is obligatory on a person to pay for himself and for those on whom he is obligated to spend, if he possesses what is more than his provisions for a day and a night: a *sā*‘ of dates, grains, dried yogurt, raisins, or wheat. However, it is best to give that which will give the most benefit.[197] It is not permissible to delay it until after the day of ‘Eid. The Messenger of Allah said that it is a purification for the fasting person from vain speech and obscenity, and it is to help feed the poor. Thus, whoever pays this *zakāh* prior to the prayer, it is accepted from him, and whoever pays it after the *salāh*, then it is considered to be just another charity.[198] The Prophet said,

> سَبْعَةٌ يُظِلُّهُمُ اللهُ فِي ظِلِّهِ يَوْمَ لَا ظِلَّ إِلَّا ظِلُّهُ الْإِمَامُ الْعَادِلُ وَشَابٌّ نَشَأَ فِي عِبَادَةِ رَبِّهِ وَرَجُلٌ قَلْبُهُ مُعَلَّقٌ فِي الْمَسَاجِدِ وَرَجُلَانِ تَحَابَّا فِي اللهِ اجْتَمَعَا عَلَيْهِ وَتَفَرَّقَا عَلَيْهِ وَرَجُلٌ طَلَبَتْهُ امْرَأَةٌ ذَاتُ مَنْصِبٍ وَجَمَالٍ فَقَالَ إِنِّي أَخَافُ اللهَ وَرَجُلٌ تَصَدَّقَ أَخْفَى حَتَّى لَا

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[195] Two measure scoops from both hands

[196] Bukhārī, 3/367; Muslim, no. 984 & 986.

[197] The Shaykh said elsewhere, "The correct view is that it does not suffice to give away something as *zakah al-fitr* other than food items of the city and place in question. However, it would be possible to give grain and fruits other than the five mentioned types if that is also used as food in that place." See *al-Mukhtārāt al-Jaliyyah*, pg. 57.

[198] Abū Dāwūd, no. 1609; Ibn Majāh, no. 1827; al-Ḥākim, 1/409, who labeled it authentic based on the condition of Bukhārī.

تَعْلَمَ شِمَالُهُ مَا تُنْفِقُ يَمِينُهُ وَرَجُلٌ ذَكَرَ اللهَ خَالِيًا فَفَاضَتْ عَيْنَاهُ.

"Seven will be shaded by Allah on the day when there will be no shade except His: the just *imām*; the young who grows up in the obedience of Allah; a man whose heart is connected to the mosque; two men who love each other for the sake of Allah, they meet on it and depart on it; a man who was invited for sexual pleasure by a woman of status and beauty and says, 'I fear Allah'; a man who gives charity in such secret that his left hand does not know what the right has given; and a man who remembers Allah in solitude and his eyes flow with tears."[199]

[199] Bukhārī, 2/143; Muslim, no. 1031.

-Chapter-
Those Who are Eligible for Zakāh and Those Who are Not

Zakāh is given only to eight type of people whom Allah mentions,

﴿إِنَّمَا ٱلصَّدَقَٰتُ لِلْفُقَرَآءِ وَٱلْمَسَٰكِينِ وَٱلْعَٰمِلِينَ عَلَيْهَا وَٱلْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِى ٱلرِّقَابِ وَٱلْغَٰرِمِينَ وَفِى سَبِيلِ ٱللَّهِ وَٱبْنِ ٱلسَّبِيلِ ۖ فَرِيضَةً مِّنَ ٱللَّهِ ۗ وَٱللَّهُ عَلِيمٌ حَكِيمٌ﴾

"Charity is only for the poor, the needy, those employed to collect it, those whose hearts need winning over, to free the captives, to help those in debt, for Allah's cause, and for the traveler in need. This is ordained by Allah. Allah is All Knowing, All Wise." (9:60)

To restrict payment to only one of the aforementioned groups is permissible, due to the Prophet's statement to Mu'ādh [when he was being sent to Yemen],

فَإِنْ هُمْ أَطَاعُوا لَكَ بِذَلِكَ فَأَخْبِرْهُمْ أَنَّ اللهَ قَدْ فَرَضَ عَلَيْهِمْ صَدَقَةً تُؤْخَذُ مِنْ أَغْنِيَائِهِمْ فَتُرَدُّ عَلَى فُقَرَائِهِمْ.

"If the people obey you in that, then infrom them that Allah obligated charity on them, to be taken from their rich and given to their poor."[300]

It is not permissible to give *zakāh* to the following:

1. A rich person.
2. Those of good health that are able to earn a living.
3. Any member of the family of Muhammed, referring to Banū (tribe of) Ḥashim and their slaves.
4. The one for whom it is obligatory [to give *zakāh*] at the time that it is due.
5. A disbeliever.

Concerning voluntary charity, it is permissible to give it to any of those mentioned [excluding the Prophet's family] and others. However,

[300] Bukhārī, 3/357; Muslim, no. 19.

it is better to give it where it will be more beneficial, private or public. The Prophet said,

مَنْ سَأَلَ النَّاسَ أَمْوَالَهُمْ تَكَثُّرًا فَإِنَّمَا يَسْأَلُ جَمْرًا فَلْيَسْتَقِلَّ أَوْ لِيَسْتَكْثِرْ.

> "Whoever begs from the people for their money only to increase his own wealth, then he is only asking for a piece of hot coal. So let him seek to be independent or seek an increase."[201]

'Umar [b. Khaṭṭāb] said,

إِذَا جَاءَكَ مِنْ هَذَا الْمَالِ شَيْءٌ وَأَنْتَ غَيْرُ مُشْرِفٍ وَلَا سَائِلٍ فَخُذْهُ وَمَا لَا فَلَا تُتْبِعْهُ نَفْسَكَ.

> "Whatever comes to you from this wealth while you are not incharge of it or are not begging for it, then take it and do not follow your desires."[202]

[201] Muslim, no. 1041.
[202] Muslim, no. 1045; Bukārī, 3/337.

Book of Fasting (*Kitāb al-Siyām*)

The proof which substantiates it is Allah's saying,

﴿ يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ كُتِبَ عَلَيْكُمُ ٱلصِّيَامُ كَمَا كُتِبَ عَلَى ٱلَّذِينَ مِن قَبْلِكُمْ ﴾

"You who believe, fasting is prescribed for you as it was prescribed for those before you." (Q, 2:183)

The fast during the month of Ramaḍan is obligatory for those who are:

1. Sane,
2. adult,
3. Muslim,
4. capable of fasting, and
5. upon sighting the new moon, or after the completion of thirty days of the month of Sha'bān.[203]

[203] The Shaykh has said, "The correct view is that when the sighting places are different and the moon appears at different parts at different days, then the people of every area must follow their respective experience of moon sighting. The *hadith* of Kurayb from ibn 'Abbās is clear and explicit in this regard." He also said, "If the proof of the appearance of moon is established during the day [i.e., the first of Ramadan] then the people of that area must start fasting accordingly on the same day. Shaykh ibn Taymiyyah has opted for the view that the people of that area do not need to make up for the fast later.

The Prophet said [concerning the moon],

إِذَا رَأَيْتُمُوهُ فَصُومُوا وَإِذَا رَأَيْتُمُوهُ فَأَفْطِرُوا فَإِنْ غُمَّ عَلَيْكُمْ فَاقْدُرُوا لَهُ.

"When you see [the moon of Ramaḍan] then fast. When you see [the moon of Shawwāl] then stop fasting, but if you are unable to see it, then calculate [thirty days]."[204]

In another wording,

فَاقْدُرُوا لَهُ ثَلاَثِينَ.

"Calculate thirty [days] for it"

Yet, in another wording,

فَأَكْمِلُوا عِدَّةَ شَعْبَانَ ثَلاَثِينَ.

"Complete the thirty [days of] Sha'bān."[205]

Fasting commences with the sighting of the new moon by a just person, while the testimony of no less than two just persons is required for the rest of the months.

It is obligated to make intention (*niyyah*) during the night of the obligatory fast. However, it is permissible to make the intention during the day for the voluntary fast. The sick, who is harmed by fasting, and the traveler have the option to fast or not to fast.[206] It is not permissible for the menstruating woman or the one having postpartum bleeding to fast; instead, they must make them up. The pregnant woman and the one suckling, if they fear for their child, can break their fast and make up the days or feed a needy person for every fasting day missed. The one who is unable to fast, due to old age or a sickness from which there is no hope of a cure, should feed a poor person for every day missed.

Whoever breaks a fast, has only to make it up, whether this was due to eating or drinking, intentional vomiting, *hijāmah* (cupping),

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His view is very strong and is based on a sound basis which is: Religious obligations are not effective unless they are known to have become obligatory." See *al-Mukhtārāt al-Jaliyyah*, pg. 59-60.

[204] Bukhārī, 4/113; Muslim, no. 1080.

[205] Bukhārī, 4/119; Muslim, no. 1081.

[206] The Shaykh opined that the traveler is not obligated to observe the fast in all circumstances, even for the day he is sure to have reached his destination beforehand. See *al-Mukhtārāt al-Jaliyyah*, pg. 61.

or ejaculation due to foreplay. Otherwise, whoever breaks their fast because of sexual intercourse[207] must make it up and free a slave. If he does not have one, then he must fast two consecutive months, and if he is unable to fast two consecutive months, then he should feed sixty poor people. The Prophet said,

> مَنْ نَسِيَ وَهُوَ صَائِمٌ فَأَكَلَ أَوْ شَرِبَ فَلْيُتِمَّ صَوْمَهُ فَإِنَّمَا أَطْعَمَهُ اللهُ وَسَقَاهُ.
>
> "Whoever eats or drinks while fasting due to forgetfulness, let him complete his fast, for Allah was the one who fed him and gave him drink."[208]

Also,

> لاَ يَزَالُ النَّاسُ بِخَيْرٍ مَا عَجَّلُوا الفِطْرَ.
>
> "The people will always be on goodness as long as they hasten to break their fast."[209]

Also,

> تَسَحَّرُوا فَإِنَّ فِي السُّحُورِ بَرَكَةً.
>
> "Eat *suhūr* (the pre-dawn meal), for there is blessings in it."[210]

Also,

> إِذَا أَفْطَرَ أَحَدُكُمْ، فَلْيُفْطِرْ عَلَى تَمْرٍ، فَإِنْ لَمْ يَجِدْ فَلْيُفْطِرْ عَلَى مَاءٍ، فَإِنَّهُ طَهُورٌ.
>
> "When one of you breaks his fast, then let him break it with dates. If he does not have any, then let him break it with water, for it is indeed pure."[211]

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[207] The Shaykh said elsewhere, "The correct view is that if the woman or man enter into sexual intercourse due to forgetfulness or force, then they are not obliged to break the fast of that day and offer expiation. Since eating, which is the basic prohibition during fasting, is forgiven, if committed while being forgetfully that he is fasting, then the same should be the case with sex." See *al-Mukhtārat al-Jalliyyah*, pg. 63

[208] Bukhārī, 4/155; Muslim, no. 1155.

[209] Bukhārī, 4/198; Muslim, no. 1098.

[210] Bukhārī, 4/139; Muslim, no. 1095.

[211] Aḥmad, 4/17, 214, Abū Dāwūd, no. 255; al-Tirmidhī,n o. 658 & 659, who called it *ṣaḥīḥ*; ibn Mājah, no. 1699; al-Ḥākim, 1/432, who said it is authentic based on the conditions of Bukhārī; al-Bayhaqī, 4/238.

Also,

مَنْ لَمْ يَدَعْ قَوْلَ الزُّورِ وَالْعَمَلَ بِهِ وَالْجَهْلَ فَلَيْسَ لِلَّهِ حَاجَةٌ أَنْ يَدَعَ طَعَامَهُ وَشَرَابَهُ.

"Whoever does not abandon false speech and acting upon it or acting out of ignorance, then Allah has no need for his abstaining from food and drink."[212]

Also,

مَنْ مَاتَ وَعَلَيْهِ صِيَامٌ صَامَ عَنْهُ وَلِيُّهُ.

"Whoever dies while having some outstanding fasts to be made up, then his guardian should fast on his behalf."[213]

Also,

وَسُئِلَ عَنْ صَوْمِ يَوْمِ عَرَفَةَ؟ فَقَالَ: «يُكَفِّرُ السَّنَةَ الْمَاضِيَةَ وَالْبَاقِيَةَ» قَالَ: وَسُئِلَ عَنْ صَوْمِ يَوْمِ عَاشُورَاءَ؟ فَقَالَ: «يُكَفِّرُ السَّنَةَ الْمَاضِيَةَ» قَالَ: وَسُئِلَ عَنْ صَوْمِ يَوْمِ الِاثْنَيْنِ؟ قَالَ: «ذَاكَ يَوْمٌ وُلِدْتُ فِيهِ، وَيَوْمٌ بُعِثْتُ فِيهِ، وَأُنْزِلَ عَلَيَّ فِيهِ.

The Prophet was asked about fasting on the Day of 'Arafah, so he replied, "It wipes out [the sins of] the past year and the remaining year." He was asked about fasting on Ashura', so he replied, "It wipes out the [sins of the] past year." He was asked about fasting on Mondays, so he replied, "On that day I was born, on that day I was sent, and on that day it [the Qur'an] was revealed to me."[214]

Also,

مَنْ صَامَ رَمَضَانَ ، ثُمَّ أَتْبَعَهُ سِتًّا مِنْ شَوَّالٍ كَانَ كَصِيَامِ الدَّهْرِ.

"Whoever fast all of Ramaḍan and then follows it with six day in Shawwāl, it is like he fasted a lifetime."[215]

Abū Dhar said,

أَمَرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ نَصُومَ مِنَ الشَّهْرِ ثَلَاثَةَ أَيَّامٍ، ثَلَاثَ عَشْرَةَ

[212] Bukhārī, 4/116 & 10/437.
[213] Bukhārī, 4/192; Muslim, no. 1147.
[214] Muslim, no. 1162.
[215] Muslim, no. 1164.

، وَأَرْبَعَ عَشْرَةَ ، وَخَمْسَ عَشْرَةَ

"The Messenger of Allah commanded us to fast three days out of a month: the thirteenth, fourteenth, and fifteenth."[216]

The Prophet prohibited fasting on two days: the day of Fitr[217] and the day of al-Nahr[218].[219] He said,

أَيَّامُ التَّشْرِيقِ أَيَّامُ أَكْلٍ وَشُرْبٍ وَذِكْرٍ لِلَّهِ عَزَّ وَجَلَّ.

"The days of *Tashriq*[220] are for eating, drinking, and remembering Allah, the Mighty and Majestic."[221]

Also,

لَا يَصُومَنَّ أَحَدُكُمْ يَوْمَ الْجُمُعَةِ ، إِلَّا يَوْمًا قَبْلَهُ أَوْ بَعْدَهُ.

"None of you should fast on Friday, unless he fasted the day before or will fast the day after."[222]

Also,

مَنْ صَامَ رَمَضَانَ إِيمَانًا وَاحْتِسَابًا غُفِرَ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ ، وَمَنْ قَامَ لَيْلَةَ الْقَدْرِ إِيمَانًا وَاحْتِسَابًا غُفِرَ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ

"Whoever fasts during Ramaḍan with sincere faith, seeking to attain Allah's reward, then He will forgive all his past sins. Whoever stands [in prayer] during *Laylat al Qadr* (The Night of Decree) with sincere faith, seeking to attain Allah's reward, then He will forgive his past sins."[223]

The Prophet would observe *i'tikāf*[224] during the last ten days of Ramaḍan, until his death. Afterwards, his wives observed *i'tikāf*.[225] The Prophet

[216] Aḥmad, 5/150; al-Nisā'ī, 4/223; al-Tirmidhī, no. 761, who called it *ḥasan*.
[217] This is the day following the conclusion of the month of Ramadan. [TN]
[218] This is the Day of Slaughtering, which occurs at the end of *hajj* [TN]
[219] Bukhārī, 4/239; Muslim, no. 827.
[220] These are the three days after the slaughter during *hajj*. [TN]
[221] Muslim, no. 1141
[222] Bukhārī, 4/232; Muslim, no. 1114.
[223] Bukhārī, 1/92 & 4/115; Muslim, no. 760.
[224] Seclusion in a mosque with the intent to perform acts of worship. [TN]
[225] Bukhārī, 4/271; Muslim, no. 1172. The Shaykh said elsewhere, "The correct view is that it is not recommended for every person who enters the mosque to make an intention for *i'tikāf*. This has not been reported to have been done or commanded by the

said,

لَا تُشَدُّ الرِّحَالُ إِلَّا إِلَى ثَلَاثَةِ مَسَاجِدَ: الْمَسْجِدِ الْحَرَامِ ، مَسْجِدِي هَذَا ، وَمَسْجِدِ الأَقْصَى.

"Travel is not made except to three mosques: Masjid al-Ḥarām (The Sacred Mosque), my mosque (i.e., The Prophet's Mosque), and Masjid al-Aqṣā (The Aqsa Mosque in Jerusalem)."[226]

Prophet." See *al-Mukhtārāt al-Jaliyyah*, pg. 63.

[226] Bukhārī, 3/70; Muslim, no. 827.

Book of Pilgrimage
(*Kitāb al-Ḥajj*)

The proof on which it is based is Allah's statement,

﴿وَلِلَّهِ عَلَى ٱلنَّاسِ حِجُّ ٱلْبَيْتِ مَنِ ٱسْتَطَاعَ إِلَيْهِ سَبِيلًا﴾

> "Ḥajj to the House is a duty that people owe to Allah, those who have the ability." (Q, 3:97)[227]

Ability here is the most essential condition, and means being in possession of provisions and transportation, after having the essential and basic requirements. Ability for a woman comprises of her having with her a *maḥrām* (guardian), who accompanies her on her travel. The *ḥadīth* of Jābir on the pilgrimage of the Prophet comprises of major rulings concerning it. It is recorded by Muslim on the authority of Jabir b. 'Abdullāh,

> "The Prophet stayed in Madinah for nine years without making *ḥajj*. In the tenth year he announced to the people that he would be making *ḥajj*, so a large amount of people headed toward Madinah,

[227] The Shaykh has said elsewhere that the *ḥajj* of an adult slave is valid, and he does not need to re-offer it after he gains his freedom. Additionally, the leader of a groups of pilgrims does not necessarily have to belong to that city or area that the pilgrims whom he is leading are from. See *al-Mukhtārāt al-Jaliyyah*, pg. 64.

all hoping to accompany him and do what he does. We left and accompanied him until we came to Dhu al-Ḥulaifah. [At that time] Āsma' bint 'Umaysah gave birth to Muhammad b. Abū Bakr, and she sent an emmisary to the Messenger of Allah asking, 'What should I do?' He said, 'Perform *ghusl*, wrap a cloth around your privates,[228] and enter into *iḥrām*.' The Prophet prayed in the mosque and then rode al-Qaṣwā'[229] [his female camel] until he reached al-Baidā'. There he [uttered words] of *tawḥīd*, saying, '*Labbayka Allāhumma labbayk, labbayka lā sharīka laka labbayk. Inna al ḥamda wan-ni'mata laka wa'l-mulk, la sharika lak.* (Here I am, Allah! Here I am. Here I am, You have no partner. Here I am. All praise and blessings are Yours, and all sovereignty belongs to You. You have no partner).'[230] Then the people also pronounced the *talbiyah*, which they pronounce [today], and the Messenger of Allah did not refrain them from any of it, but he continued to say his own *talbiyah*."[231]

Jābir said, "Our intention was for only *ḥajj* and nothing else, being unaware of *'umrah* [at that season], but when we came with him to the House [i.e., the Ka'bah], he touched the corner [with the Black Stone], and then [made seven circuits around the Ka'bah] jogging three and walking four. He then went to the Maqām al-Ibrāhīm (Station of Ibrāhīm) and recited, 'Take the Maqam of Ibrāhīm as a place of prayer (Q. 2:125).' He then prayed two units, with the Maqām being located between him and the House."

In another wording of this narration it is said, "He recited [in the first unit], 'Say, He is Allah the One' (Q. 114) and [in the second unit], 'Say, you disbelievers,' (Q. 109), he then returned to the

[228] *Istithfār* by a woman is when she ties something between her thighs, takes a piece of cloth and places it over the vagina and again ties it from the behind and from the front to stop the blood from escaping. Today menstrual pads are used for the same purpose. See Shaykh al-Bassām, *Tawḍiḥ al-Ahkām*, 3/322.

[229] This is the name of the she-camel of the Prophet. It has also been called *al-Ghadbā'* and *al-Jad'ā'*. It has been said that it was the same she-camel that he rode on during his migration journey to Madinah.

[230] This is known as the *talbiyyah*.

[231] Muslim, no. 1218. Al-Nawawī comments on his *ḥadīth*, "It is a great *ḥadith* that covers a number of teachings and fine points of regulations. This is one of those *ḥadiths* which only Imam Muslim narrates and it is not found in the *Ṣaḥiḥ* of Bukhārī. Imam Abū Dāwūd has reported this *ḥadith* in his work. Al-Qāḍī said, 'A great numbers of scholars have dwelt upon the juridical points found in the text of this *ḥadith*. One such work is a large work done by Abū Bakr b. al-Mushar, and he has inferred more than a hundred and fifty types of legal points. However, had he exhaustively covered the subject, then the number would have been nearly double.'" See al-Nawawī, *Explanation of Ṣaḥiḥ Muslim*, 8/170.

corner and touched it. Afterwards, he left from the gate toward Mount Ṣafāh. When he got close to Mount Ṣafāh he recited the verse, 'Ṣafāh and Marwah are among the symbols of Allah (Q. 2:158).' He then said, 'I began with that which Allah began with.' He started with Ṣafāh and climbed it until he saw the House, and faced toward the Qiblah and said, '*La ilāha illallah, Allahu Akbar* (There is no deity except Allah; Allah is the Greatest).' He then said, '*Lā ilāha illallāh wahdahu lā sharīka lahu, lahul mulk wa lahul-ḥamdu wa huwa 'alā kulli shay'in qadīr; lā ilaha illallāh waḥdahu anjaza wa'dahu wa naṣara 'abdahu wa hazama al-aḥzāb wahdah* (There is no deity beside Allah; He is alone with no partner. For Him is all sovereignty and praise, and He is over all things Omnipotent. There is no diety except Allah, alone. He fulfilled His promise, aided His servant, and alone defeated the Confederates.)' He said this three times. He then descended and walked toward Marwah, and when his feet came down to the bottom of the valley,[212] he would walk fast until it appeared like we were ascending, then he would begin to walk normally until he reached Marwah. He did on Marwah similar to what he did on Ṣafāh. When it was his last circuit to Marwah he said, 'If I knew then what I know now, I would not have brought with me a sacrifical animal and would have performed an *'umrah*. Those of you, who did not bring with him a sacrifical animal, let him remove his *iḥrām* and treat it as an *'umrah*.' Surāqah b. Mālik b. Ju'sham asked, 'Messenger is this only in regards to this year or forever?' The Messenger interlocked his finger and said, '*'Umrah* is a part of *ḥajj*. No, rather it is forever.' 'Alī came from Yemen with the sacrificial animals for the Prophet of Allah and found Faṭimah to be from among those who had removed their *iḥrām*. She was wearing a dyed garment and had on kohl, so he rebuked her for what she had done. She said, 'My father has commanded me to do so.'"

He [Jabir] said, "'Alī used to say in Iraq, 'I went to the Messenger of Allah, after having been harsh on Faṭimah for what she had done, to ask him about the matter. I informed him that I had rebuked her.' The Prophet said, 'She has spoken the truth; she has spoken the truth. What did you say when you made the *ḥajj* obligatory upon yourself?' He said, 'I said, "Allah, I am going into

[212] Meaning that the ground would became leveled. However, in modern times, in the walkway between Safah and Marwah, the Government of Saudi Arabia has placed green lights letting people know when to walk fast and when to walk normal.

the state of *iḥrām* with the same purpose that your Messenger has put it on.'" The Prophet said, 'I have brought sacrifical animals with me so do not exit from *iḥram*.'"

He [Jabir] said, "The amount of sacrifical animals that 'Alī brought from Yemen and the ones that the Prophet brought were one hundred."

He [Jabir] said, "So all the people exited *iḥrām* and trimmed their hair, except for the Prophet of Allah and those who brought sacrifical animals with them. When it was the day of *Tarwiyyah*,[233] they headed for Mina and wore the *iḥrām* for *ḥajj*. The Messenger rode and prayed *ẓuhr*, *'aṣr*, *maghrib*, *'ishā'*, and *fajr*. He stayed a while until the sun rose and ordered that a tent of hair be pitched for him in Namirah [at the edge of 'Arafāt]. The Messenger of Allah then set out and the Quraysh had no doubt that he would stop at al-Mash'ar al-Ḥarām, similar to what the Quraysh did during the pre-Islamic era. The Messenger of Allah passed by it until he came to 'Arafāt and found that the tent had been pitched for him at Namirah, so he went in and remained there until the sun had passed the meridian. He then commanded that al-Qaṣwā' be brought and saddled for him, which was done.

He came to the bottom of the valley and gave a sermon to the people saying, 'Your blood and your wealth are indeed sacred to one another, as the sacredness of this day of yours, in this month of yours, in this place of yours. Every affair from the pre-Islamic era is under my feet completely abolished. The blood feuds from the pre-Islamic era are abolished. The first blood fued that I abolish is that of ibn Rabī'ah b. al-Ḥārith, who was nursed among the tribe of Sa'd and killed by Hudhayl. Usury of the pre-Islamic era is abolished, and the first usury that I abolish is that of 'Abbās b. 'Abd al-Muṭṭālib. All of it is abolished. Fear Allah with regards to your women, for you all took them with a trust from Allah and made their private parts lawful for you by the words of Allah. Your right over them is that they should not allow anyone you dislike to sit on your bed. But if they do so, then chastise them in a manner that does not cause injury or leave a mark. Their right upon you is sustenance and clothing, according to what is reasonable. I have left amongst you that which if you were to hold on to you will never be misguide: The Book of Allah. You will be asked about me, so what will you say?' We said, 'We bear witness that you have

[233] This is the 8th day of Dhul al-Hijjah. [TN]

certainly conveyed [the message], fulfilled [your duty], and given wise counsel.' The Prophet said, while pointing his index finger to the sky and referring to the people, 'Allah, be a witness; Allah, be a witness,' three times. Bilal called the *adhān*, and then he called the *iqāmah*, and the Prophet prayed *ẓuhr*. Then Bilal called the *iqamah* for *'asr* and the Prophet led the *'asr* prayer, and he did not pray anything between the two.

He then rode until he came to the place of stay and faced his camel, al Qaṣwā', towards the side where there were rocks, having the path that was taken by those who went on foot in front of him, and faced the direction of the Qiblah. He kept standing there until the sun had set, the yellow light had slightly gone, and the disc of the sun had disappeared. The Prophet made Usāmah [b. Zaid] sit behind him, and he pulled the reins of al-Qaṣwā' so tightly that her head was touching the front of the saddle, the whole gesturing with his right hand, 'People, tranquility, tranquility!' Every time he would come to a mount of treaded rocks, he loosened her reins a little so that she could climb. He then came to Muzdalifah where he prayed *maghrib* and then *'ishā'* with one *adhān* and two *iqāmahs* and he did not make any optional prayer between the two. Then he laid down until the coming of dawn. He prayed *fajr* with one *adhān* and *iqāmah* when the morning was made clear to him. Then he rode al-Qawṣā' until he came to Mash'ar al-Ḥāram. He faced the Qiblah, supplicated to Allah, Glorified Him, and pronounced his Uniqueness and Oneness, and remained standing until the daylight became evident.

He then departed before the sun rose, and the seated behind him was al-Fadl b. 'Abbās, who was a man with beautiful hair, fair complexion, and a handsome face. Moving with the Messenger was also a group of women, and al-Faḍl began to look at them. The Messenger of Allah placed his hand on the face of Faḍl, who then turned his face to the other side and began to look at them. The Messenger of Allah again placed his hand on his face and he turned his face to the other side. He came to the bottom of Maḥassir, sped up a little, and took the middle passage which comes out at the greatest Jamarah. He followed it until he came to the Jamarah which is by the tree. He threw at it seven small pebbles[234] saying, 'Allahu Akbar' with every pebble thrown. The

[234] The Shaykh said elsewhere, "The sound view is that the pilgrim at the time of pelting the stones faces the Jamarahs, emulating the Prophet. While pelting the major and

pebbles were similar to those used in slings. He threw them from the bottom of the valley. Then he went to the place of sacrifice, and sacrificed sixty three animals with his own hands, and gave the rest to 'Alī who slaughtered them with his hands, and he gave him a share in his sacrifice. He then ordered that a piece from each slaughtered animal be brought and put in a pot and cooked. Then, both of them [the Prophet and 'Alī] ate from its meat and drank from its broth.

The Messenger of Allah then rode to the House (i.e., the Ka'bah)[235] [and made *tawāf al-ifāḍah*], and prayed *ẓuhr* in Makkah. He then went to Banū 'Abd al-Muṭṭalib, who were providing the people with Zamzam, and said, 'Draw water, Banū 'Abd al-Muṭṭalib; were it not that the people would usurp from you this right of providing water, I would have drawn it along with you.' So they gave him a bucket and he drunk from it."[236]

The Prophet would also perform the rites and say to the people, "Take your rites from me."[237] Therefore, the perfect model for performing *ḥajj* is the one established by the Prophet and his Companions.

Ḥajj is restricted to four *arkāns* (pillars):

1. Wearing the *iḥrām*.
2. Standing in 'Arafah.
3. Making *ṭawāf* (circulation) [around the Ka'bah].
4. Sa'y (cicuits) [between Ṣāfah and Marwah].

The obligations of *ḥajj* are:

1. Entering into *iḥrām* from the *miqāt* (designated area).
2. Staying in 'Arafah until sunset.
3. Spending the night of *naḥr* in Muzdalifah.[238]
4. Spending the nights of *tashrīq* in Mina.

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intermediate Jamarah, he faces them while the House of Allah is to his left and Minā is to his right; whereas, while pelting the smaller Jamarh he places the House of Allah to his right and Minā to his left." See *al-Mukhtārāt al-Jaliyyah*, pg. 66.

[235] The Shaykh has refuted elsewhere the views of those who consider it allowable to delay the *ṭawwāf al-ifāḍah* until after the days of Minā. See *al-Mukhtarāt al-Jaliyyah*, pg. 66.

[236] Muslim, no. 1218.

[237] Aḥmad, 3/318, 332, 337, & 367; Muslim, no. 1297.

[238] It is *wajib* (obligatory) to spend at least a part of the second half of the night in al-Muzdalifah. See *Nūr al-Baṣa'ir*, pg. 31.

5. Stoning the Jamrahs.
6. Shaving or shortening the hair [on the head]; either is sufficient.[239]

The difference between abandoning a pillar and an obligation are the following:

- If one of the pillars is abandoned, then the *ḥajj* becomes invalid.
- If one of the obligations is omitted, it is a sin and an animal sacrifice must be offered in compensation.

A person who intends to enter into *iḥrām* is given the choice between *tamattu'*—which is the best—*qirān*, and *ifrad*.

- *Tamattu'*: one enters into *iḥrām* first for *'umrah* during the months of *ḥajj* and completes it [and then exits from his *iḥrām*]. He then assumes *iḥrām* for *ḥajj* during the same [*ḥajj*] season. He is required to slaughter an animal if he is not from the residents of the Sacred Precient.
- *Ifrad*: one enters into *iḥrām* with the sole intention of performing only *ḥajj*.
- *Qirān*: one performs *'umrah* and then *ḥajj* in the same state of *iḥrām*, or he performs *'umrah* and then combines *ḥajj* [with it] before making the *ṭawāf* for *'umrah*.

A person who starts with *tamattu'* is obliged to convert it to *qirān* under the following conditions:

- He fears that he may miss staying in 'Arafah because he is busy performing *'umrah*.
- If a woman begins menstruating or has post-partum bleeding and knows that she would not become pure before the time of staying in 'Arafah.

As for the individual performing *ifrād* and *qirān*, they observe the same rituals. However, it is obligatory for the one performing *qirān* to have a sacrifical animal with him, which is not a condition for the one perfoming *ifrād*.

[239] A seventh *wājib* act is the farewell *ṭawwāf*. See *Nūr al-Baṣā'ir*, pg. 31.

The person in *iḥrām* (the *muḥrim*) must avoid the following:[240]

- Removing any hair.
- Clipping the nails.
- Wearing stitched clothes, in the case of men.
- Covering the head, in case of men.
- Applying fragrances, for both men and women.
- Hunting animals, instructing others to doing so, or aiding others in their killing.
- The greatest and gravest prohibition during *iḥrām* is sexual intercourse, since the prohibition of it is intensified and it nullifies the *ḥajj* and causes the pilgrim to offer a camel as expiation.

If a man covers his head or wears stitched clothing, or a woman covers her face, wears gloves, or applies fragrance [the last being for both men and women] they must chooses from the following expiations:

- fast three days,
- feed six poor people, or
- slaughter a sheep.

If he kills a game, then he has a choice between:

- Slaughtering an animal of similar likeness, if there is an equivalent to it from cattle.
- Assess its value based on an equivalent animal from the place where he killed the [first] animal, and purchasing food with its value to feed the poor, giving each person a *mudd*[241] of wheat or half a *sā'*[242] of any other type of food.
- Fast a day in lieu of each poor person that is to be fed.

Concerning the sacrificial animal offered for *tamattu'* and *qirān*, it is obligatory that it meet the conditions of an *udḥiyah* (sacrifical animal). If an individual cannot afford it, then he must fast ten days: three days

[240] The Shaykh has declared that it is correct that expiation is not compulsory on the one who is compelled to commit the act or does so forgetfully. This is also true for the removal of hair or nails, or even killing a prey. See *al-Mukhtārāt al-Jaliyyah*, pg. 65.
[241] A dry measure of half a bushel, approx. 543 g. [TN]
[242] One *sā'* is equalent to approximately 3 kg. [TN]

during *hajj*—it is permissible for him to fast the days of *tashrīq* as the three days—and seven upon his return home. This ruling also applies to the one who:

- Abandons an obligatory act, or
- it becomes mandatory on him due to engaging in foreplay.

Every sacrifical animal or foodstuff that is offered in connection to the Sacred Precinct or *iḥrām* should be given to the poor of the Ḥaram, whether they are permanent or temporary residents. However, the fast can be observed anywhere.

Concerning the meat of the slaughtered [animal] offered for *tamattu'* and *qirān*, it is recommended that the person:

- eats from it,
- gives some as a gift, and
- gives away some as charity.

As for the slaughtering of an animal that becomes mandatory as expiation due to the committing of a prohibition or the abandonment of an obligation, then it is referred to as *blood compensation* and the one offering it is not permitted to eat anything from it;[203] rather, the entire meat of the slaughtered animal must be given away as charity, since it is an expiation.

Concerning *ṭawāf*, its conditions are the following:

- Having intention.
- Starting from the Black Stone. The *sunnah* is to greet the black stone and kiss it. If he is unable to do so, then he should point to it and say,

  بِسْمِ اللهِ، اللهُ أَكْبَرُ، اللَّهُمَّ إِيمَانًا بِكَ، وَتَصْدِيقًا بِكِتَابِكَ، وَوَفَاءً بِعَهْدِكَ، وَاتِّبَاعًا لِسُنَّةِ نَبِيِّكَ مُحَمَّدٍ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

  "*Bismillah, Allahu Akbar, Allahuma īmanan bika, wa taṣdīqan bikitabika, wa wafā'an bi'ahduka, wa tibā'an li sunnati nabiyyaka Muḥammad ṣalallahu 'alayhi wa-sallam.* (In the name of Allah; Allah is the Greatest; Allah, faith is in You, belief in Your

[203] Shaykh ibn 'Aqil has recorded this sentence in the following way. "The offerings slaughtered in expiation during *ḥajj* is like the expiation for *ḥajj al-tamattu'*, *qirān* and optional offerings, and can be eaten, gifted, and given away."

> Book, loyalty to Your covenant, and compliance to the way of your Prophet Muhammed.)"

- Maintain the House (i.e., the Ka'bah) to his left.
- Complete seven circuits.
- Purify himself from filth and ritual impurity.

Being in a state of purification for the rituals, excluding the *tawaaf*, is a non-obligatory *sunnah*. It is mentioned in a *hadīth* that,

الطَّوَافُ بِالْبَيْتِ صَلَاةٌ إِلَّا أَنَّ اللهَ أَبَاحَ فِيهِ الكَلَامَ.

"*Ṭawāf* around the house is a prayer, except that Allah has made speaking during it permissible."[244]

It is recommended to do the following during it:

1. Observe *iḍṭibā'*[245] during *ṭawāf al-qudūm* (arrival *ṭawāf*). He wraps his upper garment (*ridā'*) under his right shoulder and over his left shoulder.
2. Observes *ramal* (brisk walk) during the first three circuits, and walks normal during the remaining ones.

It is not recommended to observe *ramal* and *iḍṭibā'* in any of the *ṭawāfs* other than this one.

As for the conditions of *sa'y*, they are the following:

- *niyyah* (intention),
- completion of seven [rounds], and
- beginning at Ṣafāh.

It is legally prescribed that the individual mentions the name of Allah and supplicates to Him a lot during *ṭawāf*, *sa'y*, and all the other rituals. The Prophet said,

إِنَّمَا جُعِلَ الطَّوَافُ بِالْبَيْتِ وَبَيْنَ الصَّفَا وَالْمَرْوَةِ وَرَمْيُ الْجِمَارِ لِإِقَامَةِ ذِكْرِ اللهِ.

[244] Al-Tirmidhī, no. 960; al-Nisā'ī, 5/222; al-Ḥākim, 2/266, who called it authentic based on the conditions of Bukhārī and Muslim. Ibn Ḥajar declared it *ṣaḥīḥ* and also stated that it was declared as such by ibn al-Sakan and ibn Khuzaymah. See *al-Takhlīṣ*, 1/138.

[245] *Iḍṭibā'* is exposing the right shoulder while covering the left shoulder with the upper garment.

"*Tawāf* around the House and between Ṣafāh and Marwah, and stoning the pillars are prescribed for the establishment of the rememberance of Allah."[246]

Abū Hurayrah narrated,

لَمَّا فَتَحَ اللهُ عَلَى رَسُولِهِ مَكَّةَ قَامَ فِي النَّاسِ فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ، ثُمَّ قَالَ: «إِنَّ اللهَ حَبَسَ عَنْ مَكَّةَ الْفِيلَ، وَسَلَّطَ عَلَيْهَا رَسُولَهُ وَالْمُؤْمِنِينَ وَإِنَّهَا لا تَحِلُّ لِأَحَدٍ كَانَ قَبْلِي وَإِنَّهَا أُحِلَّتْ لِي سَاعَةً مِنْ نَهَارٍ، وَإِنَّهَا لا تَحِلُّ لِأَحَدٍ بَعْدِي، فَلاَ يُنَفَّرُ صَيْدُهَا، وَلاَ يُخْتَلَى شَوْكُهَا، وَلاَ تَحِلُّ سَاقِطَتُهَا إِلَّا لِمُنْشِدٍ، وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ، إِمَّا أَنْ يُفْدَى وَإِمَّا أَنْ يُقِيدَ»، فَقَالَ الْعَبَّاسُ: إِلَّا الإِذْخِرَ، فَإِنَّا نَجْعَلُهُ لِقُبُورِنَا وَبُيُوتِنَا، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِلَّا الإِذْخِرَ»

When Allah granted His Messenger the conquest of Makkah, the Messenger, after praising and thanking Allah, stood up and addressed the people saying, "Allah kept the elephant away from Makkah and gave authority over it to His Messenger and the believers. It was neither permissible for anyone before me [to fight in it], nor will it be permissible for anyone after me. Fighting was made permissible for me for a few hours of a day, but it will never be permissible for anyone after me. Do not kill its animals, do not uproot its thorny shrubs, and do not pick up the lost things except by one who will pronounce it publicly. The relative of the murdered is given the choice between blood-money or retribution." Ibn 'Abās said, "Messenger of Allah, except [the cutting] of the lemon grass as we use it in our houses and our graves." So the Prophet said, "Except for lemon grass."[247]

The Prophet also said,

الْمَدِينَةُ حَرَامٌ مَا بَيْنَ عِيرٍ إِلَى ثَوْرٍ

"All of Madinah is sacred, from [the southern hill of] 'Ayr to [the northern hill of] Thawr."[248]

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[246] Aḥmad, 6/64, 75, & 139; Abū Dāwūd, no. 1888, al-Tirmidhī, no. 902, who called it authentic.

[247] Bukhārī, 1/197, 4/41, & 8/20; Muslim, no. 1354.

[248] Bukhārī, 4/81, 6/291, & 12/41, Muslim, no. 1354. 'Ayr is the name of a blackish mountain that is situated in Ḥamarah. It is rectangular in shape and lies in the direction of east to west, and faces Madinah from the south. In its northern side lies the valley of al-

خَمْسٌ مِنَ الدَّوَابِّ، كُلُّهُنَّ فَاسِقٌ، يَقْتُلُهُنَّ فِي الحَرَمِ: الغُرَابُ، وَالحِدَأَةُ، وَالعَقْرَبُ، وَالفَأْرَةُ، وَالكَلْبُ العَقُورُ.

"Five animals, which are harmful, can be killed in the Sacred Precinct or in the *iḥram*: the crow, the kite, the scorpion, the rat, and the rabid dog."[249]

'Aqīq wherein is the well of 'Urwah b. al-Zubayr. Thawr is a small, round, and reddish mountain, which is situated to the north of Madīnah behind the Mountain of 'Uhad. Thus, the Mountain of 'Uhad lies within the sacred territory of Madīnah.

[249] Bukhārī, 6/355; Muslim, no. 1199.

-Chapter-
The *Hady*, *Uḍḥiyyah*, and the *'Aqīqah*

The obligatory aspects of the *hady* have already proceeded, so anything in addition to that is *sunnah*, and the same applies for the *uḍḥiyyah* and the *'aqīqah*. Concerning this, only a sacrificial animal meeting the following conditions is sufficient:

- a one and a half year old sheep,
- a one year old sheep,
- a five year old camel,
- a two year old cow, or
- a one year old goat.

The Prophet said,

> أَرْبَعٌ لَا تَجُوزُ فِي الْأَضَاحِيِّ – فَقَالَ –. الْعَوْرَاءُ بَيِّنٌ عَوَرُهَا، وَالْمَرِيضَةُ بَيِّنٌ مَرَضُهَا، وَالْعَرْجَاءُ بَيِّنٌ ظَلْعُهَا، وَالْكَسِيرُ الَّتِي لَا تَنْقَى.
>
> "Four types of animals are not permissible for sacrifice: the one-eyed animal whose defect is apparent, the sick animal whose illness is apparent, the limp whose defect is apparent, and the one that is emaciated and is usually not picked."[250]

The [sacrificial animal] should be of a good breed and free of any defect.[251] The more perfect it is, the more loved it is to Allah, and the greater the reward for its owner. Jābir said,

> نَحَرْنَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَامَ الْحُدَيْبِيَةِ الْبَدَنَةَ عَنْ سَبْعَةٍ، وَالْبَقَرَةَ عَنْ سَبْعَةٍ.
>
> "We sacrificed with the Prophet in the year of Ḥudaybiyah, a

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[250] Mālik, 2/482; Aḥmad, 4/289; Abū Dāwūd, no. 2802; al-Tirmidhī, no. 1497, who called it authentic; ibn Mājah, no. 3144; al-Nisā'ī, 7/215. Al-Ḥāfiẓ b. Ḥajar says, "This narration is *ṣaḥiḥ*, and the authors of the *Sunans* have recorded it through sound *isnāds*. Imām Aḥmad has said regarding it, 'What an excellent *ḥadith*.'" See *al-Tahdhib*, 8/182.

[251] The Shaykh has said that the animals whose ears and horns are cut or damaged can be offered as sacrifice provided that the cut does not cause injury to it, render it defective, or make it ill. See *al-Mukhtārāt al-Jalliyyah*, pg. 67.

camel between seven people and a cow between seven people."[252]

The *aqiqah* is a *sunnah* for the parent, and it is recommended to sacrifice a two sheep for a newborn boy and one sheep for a newborn girl. The Prophet said,

كُلُّ غُلَامٍ مُرْتَهَنٌ بِعَقِيقَتِهِ، تُذْبَحُ عَنْهُ يَوْمَ سَابِعِهِ، وَيُمَاطُ عَنْهُ الأَذَى، وَيُسَمَّى.

"Every newborn is mortgaged with its *aqīqah*, which is to be sacrificed on the seventh day, its head shaved, and it is given a name."[253]

The one offering the sacrifice should:

- eat from the sacrifice,
- give some away as a gift, and
- gives some as charity.

However, he should not give anything from it to the butcher as payment, but he can give it to him as a gift or as charity.

[252] Muslim, no. 1318.

[253] Aḥmad, 5/12; Abū Dāwūd, no. 2838, al-Tirmidhī, no. 1522, who called it authentic; ibn Mājah, no. 1365; al-Nisā'ī, no. 7/166, al-Ḥākim, 4/237.

Book of Transactions
(*Kitāb al-Buyū'*)

[Conditions of a Transaction]

The default ruling on it is that it is permissible. Allah says,

﴿وَأَحَلَّ ٱللَّهُ ٱلۡبَيۡعَ وَحَرَّمَ ٱلرِّبَوٰاْ﴾

> "Allah has made trading permissible and usury impermissible." (Q, 2:275)

All objects of real estate, animals, furniture, and other things are permissible to draw a contract on as long as the conditions for the sale or the trade are met.[254] The greatest conditions are:

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[254] The Shaykh has concluded that buying and selling of the *mushaf* (printed copy of the Qur'an) is allowable if the practice does not involve desecration of it. The reason is that there is no escaping from it in daily life. The Shaykh also concluded the possibility of selling land conquered through battle and not distributed among the conquerors, as was the case of Egypt, Syria, and Iraq during the early Muslim conquests Such was the status of the land. However, it remains the same with the new buyer as it was with the seller, meaning, it will remain the subject of *kharāj*. It is established by the perpetual practice of the believers. Similar is the case of the houses in Makkah. They can validly be sold and rented. For details, see *al-Mukhtārāt al-Jalliyyah*, pg. 69-70.

1. Mutual consent; as Allah says,

﴿إِلَّآ أَن تَكُونَ تِجَٰرَةً عَن تَرَاضٍ مِّنكُمْ﴾

"Except it is a trade amongst you through mutual consent." (Q, 4:4:29)

2. Freedom from *gharar* (uncertainty) and ignorance, since the Prophet said,

نَهَى عَنْ بَيْعِ الْغَرَرِ.

"A trade which includes *gharar* is prohibited." Recorded by Muslim.[255]

This includes the following forms of sales:

- Sale of the runaway [slave] and the wandering [animal].
- A sale in which one says to the other, "I will sell you [whatever I choose from] one of these two merchandises."
- Or he says, "[I will sell to] you as far as this pebble I throw reaches."
- Selling whatever is in the womb of a female slave, or the fruits that a tree will bear.
- What is in the stomach of a pregnant.[256]

This applies to whether the *gharar* is in the price or in the product.

3. The contracting party must be the owner of the object or has authority concerning its sale, be sane, and an adult.
4. That the transaction does not incorporate any *ribā* (usury).[257] It

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[255] Muslim, no. 1513.

[256] The Shaykh said that conventionally covered items like musk in packages and radish in the ground, etc., can be sold if it does not necessarily mean loss to one party. However, if there is a clear chance of loss to any of the parties, then the view of those who prohibit this deal is sound. See *al-Mukhtārat al-Jaliyyah*, pg. 71.

[257] The Shaykh mentioned that there are three types of *ribā* (usury):

1. *Ribā al-Faḍl* [taking something of a superior quality in exchange for its inferior quality] which finds mention in the *ḥadīth* of worship.
2. *Riba al Nasī'ah* [which is *riba* in delay due to the exchange not being immediate with or without excess in one of the counter values. It is an increment increase on the principal of a loan or a debt that is payable. Usury, in all modern banking transactions, falls under this category] and is obtained by selling growing things without gaining possession of them. The worst form of *ribā al-nasī'ah* is to sell a thing on these terms to be repaid in a stipulated time period.

is reported on the authority of 'Ubadh that the Messenger of Allah said,

> الذَّهَبُ بِالذَّهَبِ، وَالْفِضَّةُ بِالْفِضَّةِ، وَالْبُرُّ بِالْبُرِّ، وَالشَّعِيرُ بِالشَّعِيرِ، وَالتَّمْرُ بِالتَّمْرِ، وَالْمِلْحُ بِالْمِلْحِ، مِثْلًا بِمِثْلٍ، سَوَاءً بِسَوَاءٍ، يَدًا بِيَدٍ، فَإِذَا اخْتَلَفَتْ هَذِهِ الْأَصْنَافُ، فَبِيعُوا كَيْفَ شِئْتُمْ، إِذَا كَانَ يَدًا بِيَدٍ فَمَنْ زَادَ، أَوِ اسْتَزَادَ، فَقَدْ أَرْبَى
>
> "[Trade] gold for gold, silver for silver, wheat for wheat, grain for grain, dates for dates, and salt for salt; same for same, like for like, and hand in hand. If these types differ then sell how you want as long as it is hand in hand. Whoever increases or asks for an increase has fallen into usury."[258]

So a measurable commodity is not to be sold or traded for another measurable commodity of they same type except according to these two conditions, and the same applies to commodities that are weighed. If something that is measured is traded for something that is measured, or something that is weighed for something that is weighed, but the products vary, then it is permissible with the condition that possession is taken before parting. If something that is measured is sold or traded for something that is weighed, or vice-versa, then it is permissible even if possession takes place after parting. Additionally, ignorance of equality is like having knowledge of disparity.

This is similar to the Prophet's prohibition of *muzābanah*[259], which is agreed upon.[260] However, he gave a concession for *'arāyāh* (the transaction of dates by way of estimation), for anything that is less then five *wasqas*[261], for the one who is in need of ripe dates but does not have the money to purchase it; he can do it with estimation.[262]

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3. *Ribā al qarḍ* which means that a man lends something to a borrower and gains benefit from that loan. Thus, every loan that returns benefit over and above the lent thing is *ribā*. See *Nūr al-Baṣā'ir*, pg. 33.

[258] Muslim, no. 1587.

[259] Buying fresh dates from a tree with dried dates that have already been picked. [TN]

[260] Bukhārī, 4/403; Muslim, no. 1542.

[261] One *wasqah* is equivalent to sixty *sā'*, where 1 *sā'* equals approximately 3 kg. [TN]

[262] Bukhārī, 4/387; Muslim, no. 1541. *Al-'Arāyā* is plural of *'Ariyyah* which refers to un-

5. The contracted object should not be legally forbidden. [Sales become forbidden under the following circumstances]:

   a. Either the product is itself forbidden, as the Prophet prohibited the sale of alcohol, dead animals, and idols.[263]
   b. It can be forbidden due to causing the severing of relationship between the Muslims. [For example,] the Prophet forbade buying in opposition to another, or bidding against another, and *najash*[264].[265]
   c. The Prophet also forbade the sale and separation of related slaves.[266]
   d. Where the seller knowns that the buyer will use the goods in disobedience to Allah, such as buying walnuts and eggs for gambling, or buying weapons to stir sedition or for highway robbery.
   e. The Prophet also prohibited [the resident] from going out to meet [the caravans carrying the] merchandise; regarding, this he said,

      لَا تَلَقَّوُا الْجَلَبَ، فَمَنْ تَلَقَّاهُ فَاشْتَرَى مِنْهُ، فَإِذَا أَتَى سَيِّدُهُ السُّوقَ، فَهُوَ بِالْخِيَارِ.

      "Do not go out to meet the incoming merchandise. Whoever goes out to meet it, buys from it, and when its owner reaches the market place [he realizes that he overpaid], has the option [to maintain the transaction or cancel it]."[267]

   f. [If there is any cheating involved,] as the Prophet said,

ripe and un-plucked dates that are estimated and sold in estimation against ripe dates in proper measure. Less than five *awsaq* of unripe dates can be sold to someone who likes to eat them, and no additional charge is to be received. See *al-Mabda'*, 4/140. This is one of the exceptions of the prohibition of *muzābanah* (selling unripe fruits before they are collected) which has many forms as described by ibn Ḥajr in *al-Fatḥ*, 4/391

Al-Kharṣ is estimation. An estimator assesses the quantity of the unripe dates on the date palm trees and also the ripe dates to be repaid.

[263] Bukhārī, 4/424; Muslim, no 1581.

[264] Increasing the price of a merchandise by one who does not have the desire to buy it, only to harm others. [TN]

[265] Bukhārī, 4/353; Muslim, no. 1515.

[266] See Aḥmad, 5/413, al-Tirmidhī, no. 1301, who called it *ḥasan*; al-Dāraquṭnī, no. 256, al-Ḥākim, 2/55, who called it *ṣaḥīḥ*.

[267] Muslim, no. 1519.

مَنْ غَشَّنَا فَلَيْسَ مِنَّا.

"Whoever cheats us is not from us."[268]

The following are clear examples of *ribā* (usury):

1. Using deception through the use of *'īnah* sale (sale with immediate repurchase), such as the case when an individual sells a merchandise on credit for one hundred and then repurchases it from the buyer in cash at a lesser price or vice versa.[269]
2. Using deception by transforming the debt.[270]
3. Using deception to deal in interest through the use of loans, such as giving a loan with the condition of benefiting from some of the [loaned] money, or getting something as compensation for it. In this case, such a loan has an incurred benefit which makes it *ribā*.
4. Using deception by selling silver jewelry along with another commodity, which is different in kind, for silver, or selling a *mudd* of dates with money for [only] money.[271]

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[268] Muslim, no. 102

[269] This is the intended meaning of the two transactions in one transaction as the Shaykh concluded. See *al Mukhtārāt al-Jaliyyah*, pg. 72.

[270] For example, B owes A a sum. At the time of payment A says to B, "Either you pay me back the loan or go to X who will lend you the amount and you can then return my amount." There is an agreement between the first creditor (A) and the second one (X) that each of them will lend the amount to the debtor of the other so that the debtor can pay back the amount to the other man The first creditor will then lend the debtor the amount so that he can pay the new creditor. Another method is that the creditor says to the debtor, "Go to (X) and borrow the amount from him and pay me back my loan." Both the creditors have an agreement beforehand that they will keep lending the amount to that debtor. After the debtor borrows the money from the second creditor to pay the first creditor, then the latter will again lend the amount to him to pay the other creditor. This is one form of legal stratagem employed to reverse the loan through triangulation. See Shaykh ibn 'Uthaymīn, *Risālah al-Madāynāt*, pg. 15.

[271] Shaykh ibn Bassām says, "Selling one kind of thing against another of its kind, or against both of its kind, or against one of them plus another kind, is termed by the Jurists as *maddu 'ajwah* and dirham (a measure of pressed dates and a dirham). This is of three types:

1. The purpose of which is to cut a deal to receive additional benefit by getting additional amount of the same kind or, through a ploy, adding it to the least of the other kind. In this case it is *ḥarām*.
2. The purpose is to sell a thing without involving interest. For example a milking sheep is sold against a non-milking sheep. The correct judgment on this case is that it is allowable. Imām Mālik and Imām Shāfi'ī held this view.

سُئِلَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ التَّمْرِ بِالرُّطَبِ فَقَالَ: أَيَنْقُصُ إِذَا جَفَّ. قُلْنَا: نَعَمْ. قَالَ: فَنَهَى عَنْ ذَلِكَ.

"The Prophet was asked about the selling or trading of dried dates for ripe dates? He asked, 'Does it decrease when it dries?' We said, 'Yes.' So he prohibited it."[272]

The Prophet also,

بَيْعُ الصُّبْرَةِ مِنَ التَّمْرِ لَا يُعْلَمُ مَكِيلُهَا بِالْكَيْلِ الْمُسَمَّى مِنَ التَّمْرِ.

"He prohibited selling or trading a heap of dried dates, whose measure is unknown, for a fixed measure of dried dates."[273]

Concerning the sale of the obligation for something described (i.e., specified), it is subject to the following conditions:

- If it is sold to the one on whom it is due, then it is permissible on the condition of collecting its compensation before parting. This is because the Prophet said,

  لَا بَأْسَ أَنْ تَأْخُذَهَا بِسِعْرِ يَوْمِهَا مَا لَمْ تَفْتَرِقَا وَبَيْنَكُمَا شَيْءٌ.

  "There is no harm if they take it for its daily price, as long as they do not departed while there is still something between them [unpaid]."[274]

- If it is sold to other than the one on whom it is due, then it is not permissible because it would be a form of *gharar* (uncertainty).

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3. Both are involved and intended. For example a *madd* of pressed dates and a dirham is exchanged for their equal. The legality of this transaction is famously disputed. Imām Abu Ḥanīfah permitted it while Malik, Shāfi'ī and Aḥmad prohibited it." See *Tawḍīḥ al-Aḥkām*, 4/30.

[272] Mālik, no. 22; Abū Dāwūd, no. 3359; al-Tirmidhī, no. 1225, who called it *hasan ṣaḥīḥ*; al-Nisā'ī, 7/268; Ibn Mājah, no. 2264.

[273] Muslim, no. 1530.

[274] Aḥmad, 2/83, 139, & 154; Abū Dāwūd, no. 3354; al-Tirmidhī, no. 1242; al-Nisā'ī, 7/282; Ibn Mājah, no. 2262; al-Dāraquṭnī, no. 81; al-Ḥākim, 2/44, who called it authentic.

-Chapter-
Sale of Crops and Produce

The Prophet said,

مَنْ بَاعَ نَخْلًا بَعْدَ أَنْ تُؤَبَّرَ، فَثَمَرَتُهَا لِلْبَائِعِ، إِلا أَنْ يَشْتَرِطَهَا الْمُبْتَاعُ.

"Whoever sells a date palm tree after it has been pollinated, then its fruits belong to the seller unless stipulated by the purchaser."[275]

This [ruling] applies to all other trees whose produce ripens. Likewise, it applies to produce which is harvested only once [a year] when it ripens. However, if it is harvested numerous times, then the tree will go to the buyer and its harvested produce will go to the seller.

The Messenger of Allah prohibited the sale of produce until they become suitable; he forbade it for both the seller and the buyer.[276] When asked concerning its suitability, the Prophet said, "When it becomes safe from blight," in another narration, "until it becomes red or yellow."[277] Additionally, he prohibited the sale of grains until they matured in size."[278] The Prophet said,

لَوْ بِعْتَ مِنْ أَخِيكَ ثَمَرًا، فَأَصَابَتْهُ جَائِحَةٌ، فَلَا يَحِلُّ لَكَ أَنْ تَأْخُذَ مِنْهُ شَيْئًا، بِمَ تَأْخُذُ مَالَ أَخِيكَ بِغَيْرِ حَقٍّ؟

"If you were to sell to your brother crops, which were then destroyed [before being transferred], then it is not permissible for you to take from him anything [as payment]. With what right would you take the money of your brother, without justification?"[279]

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[275] Bukhārī, 5/49; Muslim, no. 1543.

[276] Bukhārī, 3/351; Muslim, no. 1536.

[277] Ibid.

[278] Ahmad, 3/221; ibn Mājah, no. 2217; al-Hakim, 2/19, who called it *sahīh*, Abū Dāwūd, no. 3371; al-Tirmidhī, no. 1228, who called it *hasan gharib*. The Shaykh said, "It is not permissible for the owner of a land to sell the fruit before they become red or yellow. Similarly, grains cannot be sold until they ripen. The words of the *hadith* offer a general principle and the *illah* (reason) is also general. As for the allowance of selling the land along with the trees on it, then that is possible because in that case the fruits and grain become secondary and the basic sale contract applies to both." See *al-Mukhtārāt al-Jaliyyah*, pg. 76.

[279] Muslim, no. 1554. The Shaykh said, "The buyer of any fruit stricken with a calamity after the deal complete is not obliged to pay anything for it as the *hadith* in this regard

-Chapter-
Right of Option (*Khiyār*) and Other Issues

If the sale is contracted then it becomes binding unless there is a legislative reason that entails otherwise, such as:

- *Khiyār al-Majlis* (option to cancel before departing). The Prophet said,

  إِذَا تَبَايَعَ الرَّجُلَانِ فَكُلُّ وَاحِدٍ مِنْهُمَا بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا، وَكَانَا جَمِيعًا، أَوْ يُخَيِّرُ أَحَدُهُمَا الآخَرَ، فَإِنْ خَيَّرَ أَحَدُهُمَا الآخَرَ فَتَبَايَعَا عَلَى ذَلِكَ، فَقَدْ وَجَبَ الْبَيْعُ، وَإِنْ تَفَرَّقَا بَعْدَ أَنْ تَبَايَعَا وَلَمْ يَتْرُكْ وَاحِدٌ مِنْهُمَا الْبَيْعَ، فَقَدْ وَجَبَ الْبَيْعُ.

  "If two men conduct a sale, each one has a right of choice [to cancel the sale] as long as they have not parted from one another, or if one of them gives the other the right of choice [to cancel the contract]; if they conclude their transaction upon that, then the transaction becomes binding. If they both depart after the conclusion of the contract and neither abandons the transaction, then it becomes binding."[280]

- *Khiyār al-Sharṭ* (option to cancel based on conditions), which can be stipulated for one or both of the contracting parties for a prescribed period.[281] The Prophet said,

  الْمُسْلِمُونَ عِنْدَ شُرُوطِهِمْ إِلَّا شَرْطًا أَحَلَّ حَرَامًا، أَوْ حَرَّمَ حَلَالًا.

  "Muslims are bound by their stipulations, except for the stipulations that make the permissible impermissible or makes the impermissible permissible."[282]

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offers a general principle." See *al-Mukhtarāt al-Jaliyyah*, pg. 76.

[280] Bukhārī, 4/332; Muslim, no. 1531

[281] The Shaykh concluded that optional terms and conditions are possible in rental agreements. In agreements that involve exchange, *al-salm* (future exchange), guarantee, and guardianship it is allowed as there is nothing wrong with it. See *al-Mukhtārāt al-Jaliyyah*, pg. 73.

[282] Al-Tirmidhī, no. 1352, who called it *ṣaḥīḥ*; Aḥmad, 2/366; Abū Dāwūd, no. 3594, al-Ḥākim, 2/49

- One of the parties has been excessively deceived beyond the normal practice, such as the case of *najash*[283] or meeting the traders [prior to them entering the city], or other practices of a similar nature.
- *Khiyār al-Tadlīs*, which refers to deceiving the buyer that causes a raise in the price of the merchandise. For example, not milking an animal prior to its sales so as to leave a false impression on the buyer that the animal produces a lot of milk. The Prophet said,

لاَ تُصَرُّوا الإِبِلَ وَالغَنَمَ، فَمَنِ ابْتَاعَهَا بَعْدُ فَإِنَّهُ بِخَيْرِ النَّظَرَيْنِ بَعْدَ أَنْ يَحْتَلِبَهَا: إِنْ شَاءَ أَمْسَكَ، وَإِنْ شَاءَ رَدَّهَا وَصَاعَ تَمْرٍ.

"Do not keep camels and sheep un-milked for a long time. Whoever purchases such an animal has the option to milk it and keep the milk or return it to the seller with a *sâ'* of dates."[284]

Another wording of the *hadīth* includes, "He has the right of option for three days."[285]

- If the buyer purchases something that is defective and was not aware of the defect, then he has the option to return it or keep it. If he is unable to return it, then he is entitled to receive compensation for the defect.[286]
- If [the transacting parties] differ over the price, then they both swear an oath, knowing that they both have the option to cancel the transaction.[287] The Prophet said,

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[283] Praising a product in such a way that it causes an increase in its price without the intent of every purchasing the product, but to only cause harm to the buyer [TN]

[284] Bukhārī, 4/361; Muslim, no. 1524.

[285] Ibid.

[286] Ibn Qudāmah says that *'arsh al-'ayb* means that the price of a sold item is assessed when it is not defected, and then again after it has become defected. The difference obtained between the two values is applied to the price at which the thing is sold. The ratio of loss occurred is then applied to the price For example a thing is assessed to be ten dirhams when sound When defected it is assessed to be nine dirham. This means that the defect caused ten percent loss in the worth. Now supposing the sale rate was fifteen dirhams the price would be decreased by ten percent, and so the price would now be thirteen and half dirhams. Thus, the seller will pay the buyer one and a half dirhams. See *al-Mughnī*, 2/229.

[287] The Shaykh has explained that when the buyer and seller dispute with one another on the actual price of the sold thing, then this is the only way to rectify the situation. See *al-Mukhtārāt al-Jaliyyah*, pg. 75.

مَنْ أَقَالَ مُسْلِمًا بَيْعَتِهِ أَقَالَهُ اللهُ عَثْرَتَهُ.

"Whoever revokes the sale of a Muslim [at the bequest of the other], Allah will raise him up after his fall."[288]

[288] Abū Dāwūd, no. 3460; ibn Mājah, no. 2199; Aḥmad, 2/252; al-Ḥākim, 2/45, who graded it *ṣaḥīḥ* according to the conditions of Bukhārī and Muslim.

-Chapter-
Forward Sale (*Salam*)[289]

Salam sale is valid for all commodities that can be fully specified by their description:

1. It is specified through stipulation of the description according to which its prices differ.
2. Its term [for delivery] is fixed.
3. Price is paid before the parties depart.

Ibn Abbas said,

> قَدِمَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْمَدِينَةَ، وَهُمْ يُسْلِفُونَ فِي الثِّمَارِ السَّنَةَ وَالسَّنَتَيْنِ، فَقَالَ: «مَنْ أَسْلَفَ فِي تَمْرٍ، فَلْيُسْلِفْ فِي كَيْلٍ مَعْلُومٍ، وَوَزْنٍ مَعْلُومٍ، إِلَى أَجَلٍ مَعْلُومٍ».
> "The Messenger of Allah arrived in Madinah and the people would pay in advance the price for fruits that would be delivered after a year or two. He said, 'Whoever pays in advance for a thing to be delivered later should know its weight, measure, and specified term.'"[290]

The Prophet said,

> مَنْ أَخَذَ أَمْوَالَ النَّاسِ يُرِيدُ أَدَاءَهَا، أَدَّاهَا اللهُ عَنْهُ، وَمَنْ أَخَذَهَا يُرِيدُ إِتْلَافَهَا، أَتْلَفَهُ اللهُ عَزَّ.
>
> "Whoever takes money from the people with the intention to pay it back, Allah will pay it back for him; whoever takes it intending to waste it, then Allah will destroy him."[291]

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[289] It is a transaction where advance payment is made for commodities that are delivered in a future date. [TN]
[290] Bukhārī, 4/428; Muslim, no. 1604.
[291] Bukhārī, 5/53.

-Chapter-
Mortgage (*Rahn*), Insurance (*Ḍamān*), and Sponsorship (*Kafālah*)

These are all means of documenting established rights. As for mortgage (*rahn*),[292] it is valid with every commodity whose sale is valid.[293] It remains as a trust with the mortagee.[294] He is not liable to replace it unless he missuses it or is negligent concerning it, as is the case with all other trusts.

If the debt is repayed, then the mortgaged item is released. However, if it is not repayed and the creditor requests that the the mortgaged item be sold, then it is obligatory to sell it and payback the creditor from the proceeds. Whatever remains [after paying the creditor] is given to the owner. However, if some of the debt remains, then it remains as an unsecured debt.

If someone damages the mortgaged item, then he is liable for it and the object given in compensation becomes [the new] mortgaged [item]. As for the yield of the mortgage, it is subordinate to the [principal] mortgage,[295] while the expenses for providing for it is on the owner. The mortgagee is not allowed to benefit from the mortgage except with the permission of the creditor or what the Islamic *sharī'ah* permits for him. The Prophet said,

الرَّهْنُ يُرْكَبُ بِنَفَقَتِهِ، إِذَا كَانَ مَرْهُونًا، وَلَبَنُ الدَّرِّ يُشْرَبُ بِنَفَقَتِهِ، إِذَا كَانَ مَرْهُونًا، وَعَلَى الَّذِي يَرْكَبُ وَيَشْرَبُ النَّفَقَةُ

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[292] The literal meanining of *rahn* is soundness, permanence. As a term it refers to a security against a loan which can replace the loan itself or can be sold to recover it when needed.

[293] The Shaykh said elsewhere, "It is allowed to take something as a security and a pledge when giving out something to be borrowed, a loan, or a benefit. When a pledger agrees to pledge something as security he has the right to conclude the agreement and he is obliged to maintain the terms that were agreed upon by both parties." See *al-Mukhtārāt al-Jaliyyah*, pg. 80.

[294] *Al-Rāhin* is the pledger who obtains a loan and pledges an item against that loan. *Al-Murtahin* is the one who takes something as a mortgage against the loan he gives.

[295] The Shaykh has concluded that freeing a slave who has been pledged as collateral for a loan is not permissible nor is it implementable regardless if he is in financial ease or straits. See *Al-Mukhtārāt al-Jaliyyah*, pg. 81.

"The animal can be ridden at his expense, if it was something given as a mortgage; what is in its udder can be drank at his expense, if it was something given as a mortgage. It is upon the one who rides or drinks to offer compensation for it."[296]

As for insurance (*ḍamān*), it means that a person guarantees the right on behalf of the one on whom it is due.[297] As for sponsorship (*kafālah*),[298] it means that a person guarantees to bring the one liable for a financial right to its owner. The Prophet said, "The guarantor is liable."[299] Therefore, both of them are gurantors,[300] except in the following cases:

1. They fulfill what they are obligated to do.
2. Absolved by the one whose right it is.
3. The one in debt is freed from his obligation. Allah knows best.

[296] Bukhārī, no. 5/143.

[297] Shaykh ibn Aqīl in his annotation said, "*Ḍamān* refers to a person taking up the responsibility that is the obligation of another. In this case it is not considered whether the person guaranteeing something on behalf of the other knows him or not The guarantee by a known person as well as that of an unknown person, who may later become known, is valid."

[298] Shaykh ibn Aqīl adds in his annotation of the text, "*Kafālah* is that a person ensures to present another who owes a financial right However, it does not apply to an obligation toward Allah. If the person guarantees that he knows the other, then he may be taken into custody against the person for whom he guarantees. If, however, the person who is guaranteed hands himself over to the authorities, dies, or the thing that is guaranteed is destroyed, then the guarantor becomes free of any obligation."

[299] Abū Dāwūd, no. 3565; al Tirmidhī, no. 1265, who called it *hasan*.

[300] The Shaykh has determined that the person who owns a right cannot ask the court to prosecute the guarantor unless he has used all his efforts to get the borrower to repay him. However, if that was specifically mentioned in the terms of the deal, then he can do so. The convention in this regard is that the guarantor can ask for it even if he has not exhausted all the means in the contract This is because the believers are to be treated according to the terms of the agreement made between them. See *al-Mukhtārāt al-Jaliyyah*, pg. 82.

-Chapter-
Interdiction (Ḥajr)[301] Due to Bankruptcy or Something Similar

The creditor should be patient with the debtor who is bankrupt, and he should make it easy for the one who is well off. Whoever is in debt to someone should fulfill that debt completely, both in quantity and quality. The Prophet said,

مَطْلُ الغَنِيِّ ظُلْمٌ، وَإِذَا أُتْبِعَ أَحَدُكُمْ عَلَى مَلِيءٍ فَلْيَتْبَعْ.

> "Procrastination in repaying the debt by a wealthy person is a form of oppression, and if he transfers his debt to someone who is able to pay it, then he [the creditor] should agree."[302]

So the well-off person is the one who is able to repay [the debt] without procrastination, and can be brought to a court for judgment.

If a person's debt exceeds his wealth, all or some of the creditors can request a judge to freeze his assets and prevent him from disposing of any of his property. [The judge] can liquidate his assets and divide the proceeds among his creditors in proportion to the amount they are owed.[303] None of the creditors are given precedence over another, except the creditor who is owed a mortgaged item. The Prophet said,

مَنْ أَدْرَكَ مَالَهُ عِنْدَ رَجُلٍ بِعَيْنِهِ قَدْ أَفْلَسَ فَهُوَ أَحَقُّ بِهِ مِنْ غَيْرِهِ.

> "Whoever finds his thing with a bankrupt person has more right

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[301] Ḥajar is to restrict a person's ability to use his assets. This is done in two ways:

1. Freezing a portion of the wealth of a person. Example is the freezing of the assets of the bankrupt in favor of his creditors, or the assets of the one on his death bed, which exceeds one third of the entire wealth [so that he does not bequeath it to someone and thereby depriving his legal heirs].
2. Freezing the personal assets of a person, for example that of the insane, the child, or the simpleton.

[302] Bukhārī, 4/464; Muslim, no. 1564.

[303] The Shaykh has stated that if a bankrupt person does not inform his creditors about his bankruptcy, thereby rendering them unable to limit his access to his wealth, and he dispenses his property in a way that incurs loss to them or he repays some and deprives others, then his transactions are invalid as it constitutes injustice. See *al-Mukhtārāt al-Jaliyyah*, pg. 85.

to it than anyone else."[304]

It is obligatory upon the guardian of a minor, an incompetent, or a mentally challenged person to prevent him from disposing of his wealth in a way that would cause him harm. Allah says,

﴿ وَلَا تُؤْتُوا۟ ٱلسُّفَهَآءَ أَمْوَٰلَكُمُ ٱلَّتِى جَعَلَ ٱللَّهُ لَكُمْ قِيَـٰمًا ﴾

"Do not give to the foolish your property which Allah has made a means of support for you." (4:5)

Similarly, the guardian must not come near their wealth except to improve it, which is accomplished by maintaining it, using it in ways that will bring benefit to them, and giving them from it what they need. The guardian can be a father, if he is trustworthy. If he is not trustworthy then the ruler can appoint as a guardian the closest, the most knowledgeable, and the most trusted from their relatives. [If the guardian] is rich then he should not take anything [from the wealth]. However, if he is poor then he should take [as compensation] what is adequate for him, an amount equal to that which someone would charge [for that service].

[304] Bukhārī, 5/62; Muslim, no. 1559.

-Chapter-
Reconciliation/Compromise (Ṣulḥ)

The Prophet said,

الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ، إِلَّا صُلْحًا حَرَّمَ حَلَالًا، أَوْ أَحَلَّ حَرَامًا.

"*Ṣulḥ* is permitted between Muslims, except in the case where it makes something that is unlawfully into lawful or makes the lawful into unlawful."[305]

It was recorded by Abū Dāwūd and al-Tirmidhī; the latter called it *ḥasan ṣaḥīḥ* and al-Ḥakim called it *ṣaḥīḥ*. If two parties come to a compromise with the one on whom the right is due, providing a ready commodity or a deferred one, then it is permissible. If one of them owes the other something and they come to a mutual compromise where something else is given or it becomes a debt, which is established before both the respected parties depart, then it is permissible. If they some to some form of agreement where benefit is derived from a property, or from something else, [it is permissible] as long as it is agreed upon. If they compromise over a debt to be paid later while some of it is paid now [this is permissible]. If one party is owed something, but both parties are unaware of the exact amount that is owed, then they can compromise on it with something, and this is permissibile.[306] The Prophet said,

لاَ يَمْنَعْ جَارٌ جَارَهُ أَنْ يَغْرِزَ خَشَبَةً فِي جِدَارِهِ.

"A neighbor should not prevent his neighbor from placing a wooden peg on his wall."[307]

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[305] Al-Tirmidhī, no. 1352, who called it *ṣaḥīḥ*, Aḥmad, 2/366; Abū Dāwūd, no. 3594, al-Ḥākim, 2/49

[306] The Shaykh has opined that the two parties in a mutual business transaction that is extended over a period of time can agree to cancel the agreement during the stipulated period. This is called *ḍa'wa ta'ajjal* (premature settlement). There is neither any argument that establishes its prohibition, nor is there any danger in it. Similarly, the author has concluded for the permissibility to settle on the right to redemption and the right to option. See *al-Mukhtārāt al-Jaliyyah*, pgs. 84 & 85.

[307] Bukhārī, 5/11; Muslim, no. 1609.

-Chapter-
Agency (Wakālah), Partnerships (Sharikah), and Sharecropping (Musāqāh and Muzāra'ah)

[*Wakālah* (Agency)]

The Prophet would assign others to carry out his special needs and the needs of the Muslims related to him. Therefore, it is a permissible contract[308] for the two respected parties. It is suitable in all things where representation is valid, such as,

1. The rights pertaining to Allah, such as the distribution of *zakah*,

[308] The Shaykh said elsewhere that in terms of a contract being binding it is of three types:

1. *'Aqd Lāzim* (binding contracts). These are further divided into two types:
   a. That which is binding merely by contracting, and it cannot be terminated while the parties are present in the meeting, and it has no other conditions. In some of these contracts, such as contracts for marriage and endowment, the option to revoke it is available for the party that discovers a defect in the item that is transacted.
   b. Binding contracts with the choice to be cancelled in the same meeting and has conditions. Sale and other contracts come under this category. However, the scholars of our school do not allow the option of condition (*khayār al-shart*) for the contracts in which possession is the necessary condition for its validity. Examples include: *al-salam* (future transaction agreement) and exchange of *rabawiyāt*. Shaykh al-Islām Ibn Taymiyyah allows that. Similarly, *ijārah* (lease) and similar contracts come under this category. Also according to the sound opinion *musaqāt* and *muḍāra'ah* are also binding contracts.
2. Contracts that can be terminated by any of the parties before the work begins. These include: *wakālah*, *walāyah*, and other forms of partnership except for *musāqāt*, *muzāra'ah* and *ju'ālah*. As for cancelling after the work has begun, then the scholar differ over the right to cancellation. This type of contract is annulled by the demise of any of the contracting parties or an inability to continue using the rights.
3. Binding from one part and allowable form another [meaning, comprises of both type 1 and type 2 above]. Examples include *rahn*. This belongs to the second category above from the angle of the *murtahin* and to the first from the angle of the *rāhin*. Same is the case with *ḍaman* (guarantee) and *kafālah* (responsibility), both of which are of the second category from the angle of the guaranteed, and secured and binding from the angle of the guarantor and the one who assumes responsibility.

See *al-Irshād* pg. 145. A very useful and detailed discussion can be found in Imām al-Suyuṭī's *al-Ishbāh wa al-Naẓā'ir* pg. 275.

kaffārah (expiation), and things of a similar nature.

2. The rights of people, such as contracts, annulments, and things of a similar nature.

Wakālah is not valid in cases where a person is specifically required to perform something himself and which is related to his own self. Examples are *ṣalah* (prayer), purification, taking oaths, equal treatment of wives, and other similar things. The authorized agent is not permitted to do other than what he has been permitted, verbally or customarily.

It is also permissible for the agent to deputize another to act freely upon the client's behalf.[309] Here, the agent is like all other trustees in the sense that he is not required to guarantee the entrusted object except in cases of transgression or negligence. His statement in this regard [concerning non-transgression or non-negligence on his part] is accepted if accompanied with an oath. Additionally, if the trustee claims to have returned the trust, then it is not accepted except with proof.

[*Sharikah* (Sharing of Profits & Losses)]

The Prophet said,

> إِنَّ اللهَ يَقُولُ: أَنَا ثَالِثُ الشَّرِيكَيْنِ مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ، فَإِذَا خَانَهُ خَرَجْتُ مِنْ بَيْنِهِمَا.
>
> "Allah, the Exalted, says, 'I am the third to the two partners, as long as one does not deceive the other. If he deceives the other, then I withdraw from both of them.'"[310]

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[309] The Shaykh said elsewhere that *wakālah* does not become cancelled until the *wakīl* is informed that he is no longer the attorney. If he employs the rights of *wakālah* before being informed that he is no more a *wakīl*, then that would be legal. The Shaykh also said that a man can be given power of attorney for every type of right, small or big, and to purchase what he wills as there is no religious argument barring that. The Shaykh has also concluded the following: if A says to B, "Take possession of my right from Zayd," then B can also take possession of something from the heirs of Zayd. This is in case A meant to obtain the right regardless of the individual from whom the right is obtained. See *Al-Mukhtārāt al-Jaliyyah*, pg. 87.

[310] Abū Dāwūd, no. 3383; al-Dāraquṭnī, no. 303; al-Ḥākim, 5/52 and he called it *ṣaḥīḥ*; al-Bayhaqī, 6/78. Ibn Ḥajar says in *al-Talkhīṣ* (3/49) that ibn al-Qaṭṭān declared it defective because of the lack of biographical information about Sa'īd b. Ḥayān, the father of Abī Ḥayān. On the other hand, al-Dāraquṭnī declared it defective due to *irsāl* [in the *isnād*].

Therefore, partnership in all its forms is permissible.[311] Ownership and profit in it is according to what the parties agree on, if it is a known and specific portion.[312]

Included in this are the following:

1. *'Inān* partnership. both partners contribute capital and labor.
2. *Mudarabah* partnership: one person contributes the capital and the other contributes the labor.
3. *Wujūh* partnership: both partners share in the profit of what they bought depending on their credit worthiness and reputation.

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[311] Partnership (*sharikah*) is of different types:

1. Partnership in assets. This is to share a right in assets that comprise of immovable or moveable nature. It may also involve a benefit or produce. This contract can be concluded between two or more people They might share in it after purchasing it, obtaining it as a gift, inheriting it from a deceased, or another form of wealth transfer. In this type of sharing each one of the partners is alien to the other partners and does not enjoy the right to use the asset unless the others permit it.
2. Contractual partnership. This involves sharing the right to dispense with the shared entity in a trade and other similar things. This is the type that is under discussion here. In this type of *shirkah* each one of the partners enjoys the right to dispense with the asset that is his. He may also dispense with the share of the others through power of attorney This type of partnership has been further divided by the jurists into five subcategories:
   a. *Shirkah 'inān*. A partnership in which two or more individuals pool their assets and they either both share the work equally, or one of them does all the managing and work, and thus get a share greater than the other
   b. *Shirkah muḍārabah*: A partnership in which one partner invests a definite amount of wealth and the other puts in the labor The owner of the wealth gets a predetermined share of the profits.
   c. *Shirkah wujūh* (partnership in goodwill): A partnership scheme in which two or more partners purchase commodities on credit and have no investment at all The profit earned is distributed between them at an agreed upon ratio.
   d. *Shirkah abdān* (partnership in service): A partnership in which partners share the earning of their service to the company engaged in an allowable activity or share the responsibility to carry out a task they set.
   e. *Shirkah mufāwaḍah*: A partnership in which all the partners equally share capital, management, profit, and risk. There is no condition to do necessary work or pay back losses resulting from the exercise of the rights.

See al-Bassām's, *Tawḍīḥ al-Aḥkām*, 4/127.

[312] The Shaykh has stated that *shirkah* and *muḍarabah* are valid contracts even though the capital amount is not in a specific money. There is nothing that prohibits it and there is a growing need to adopt this practice. However, the contractor needs to assess the value of the capital so that it is referred to when clearing the accounts. See *al-Mukhtārāt al-Jaliyyah*, pg. 88.

4. *Abdān* partnership: both partners share in what they earn through their labor from the permissible transactions, such as herbs and smiliar things, and what they accept of work.
5. *Mufāwaḍah* partnership: it entails all that [has preceded].

All these types of partnerships are permissible. However, they become invalid if wrongdoing or uncertainty (*gharar*) by either of the partners comes into play. For example, if one of them is entitled to a profit of a specific period, and the other to the profit of another period, or the profit of one of the products, or the profits of one of the trips, and so forth.

[*Musāqāh* and *Muzāra'ah* (Sharecropping)]

Likewise, the above things also invalidate *musāqāh*[313] and *muzāra'ah*[314] partnerships. Al-Rāfi' b. Khadīj said,

> إِنَّمَا كَانَ النَّاسُ يُؤَاجِرُونَ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى الْمَاذِيَانَاتِ، وَأَقْبَالِ الْجَدَاوِلِ، وَأَشْيَاءَ مِنَ الزَّرْعِ، فَيَهْلِكُ هَذَا، وَيَسْلَمُ هَذَا، وَيَسْلَمُ هَذَا، وَيَهْلِكُ هَذَا، فَلَمْ يَكُنْ لِلنَّاسِ كِرَاءٌ إِلَّا هَذَا، فَلِذَلِكَ زُجِرَ عَنْهُ، فَأَمَّا شَيْءٌ مَعْلُومٌ مَضْمُونٌ، فَلَا بَأْسَ بِهِ.
>
> "We used to rent out land during the lifetime of Allah's Messenger. We rented it for a specific amount of produce. Sometimes the crop of that portion was affected by blith, etc., while the rest remained, or the rest was affected by blith while that portion remained safe, and this was the only form of renting that the people knew. The Prophet forbade this practice. As for rent on something that is known and guranteed, there is no harm in it."[315]

Additionally, the Prophet contracted with the people of Khaybar for half of what they harvested from their fruits and plants. This *ḥadīth* is agreed upon by Bukhārī and Muslim.[316]

Musāqah partnership of trees refers to the owner [of the trees] giving

[313] A partnership in which planted or unplanted trees and land are given to another partner to be tended for a specified share of the crop. [TN]
[314] A partnership in which land is given for cultivation in return for a specified portion of the harvest. [TN]
[315] Muslim, no. 1547.
[316] Bukārī, 5/10; Muslim, no. 1551.

out the tree to a laborer who tends to it in return for an agreed upon portion of its harvest. *Muzāra'ah* refers to when an owner gives out the land to a laborer who cultivates it in return for a specific portion of the harvest. Both partners are subject to the customarily acknowledged conditions,[317] and to the conditions that contain no ambiquity. Additionally, if a person gives an animal to someone else to use it for work in return for half of the profit, then that is permissible.

[317] The Shaykh stated elsewhere that the agreement to irrigate and cultivate are forms of a binding contract. See *al-Mukhtārāt al-Jalliyyah*, pg. 88.

-Chapter-
Revitalization of Barren Land
(*Iḥyā' al-Mawāt*)

Mawat refers to a barren land that has no known owner, so whoever revives it by building a fence, digging a well, irrigating it, or removing whatever prevents cultivation [such as rocks, weeds, etc.], then he becomes the owner of everything on it, with the exception of metals that do not require excavation. Ibn 'Umar related the following *ḥadith*,

مَنْ أَحْيَا أَرْضًا مَيِّتَةً لَيْسَتْ لِأَحَدٍ فَهُوَ أَحَقُّ بِهَا.

> "Whoever revitalizes a barren land that does not belong to anyone, then he has more right to it."[318]

So, if a person encircles the barren land with stones, digs a well that does not bring up water, or is granted a dead land, then he has the most right to it, but he does not own it until he shows signs of life on it by the way stated above.

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[318] Bukhārī, 5/18.

-Chapter-
Royalty (*Ja'ālah*) and Leasing (*Ijārah*)

Both *ja'ālah* and *ijārah* refer to assigning a certain amount of payment to an individual for a specific job that is performed, *ja'ālah* is unknown and *ijārah* is known, or deriving benefit from something while in possession of it and being responsible for it. So whoever does what he is being paid to do, deserves compensation, or else he does not.[319] However, if the job cannot be done in the case of *ijārah*, then the payment is reduced to a portion equal to the partial benefit from the rented object. Abū Hurayrah narrated that the Messenger of Allah said,

قَالَ اللهُ: ثَلَاثَةٌ أَنَا خَصْمُهُمْ يَوْمَ الْقِيَامَةِ: رَجُلٌ أَعْطَى بِي ثُمَّ غَدَرَ، وَرَجُلٌ بَاعَ حُرًّا فَأَكَلَ ثَمَنَهُ، وَرَجُلٌ اسْتَأْجَرَ أَجِيرًا فَاسْتَوْفَى مِنْهُ وَلَمْ يُعْطِ أَجْرَهُ.

> "Allah, the Most High said, 'I will be an opponent to three types of people on the Day of Judgment: a person who makes an agreement in My Name and then breaks it, a person who sells a free person and consumes the proceeds, and a person who employs a worker and gets full work from him but does not pay him.'"[320]

Ja'ālah is more broader than *ijārah*, since it is permissible in charitable deeds, the work concerning it can either be known or unknown, and it is a lawful contract, unlike *ijārah*.

It is permissible to sublease the leased object to another person who acts as a substitute on the condition that its use by the sublessor is less harmful than the original person. Both are not required to guarantee the object unless there is transgression or negligence on their part.[321] It is realted in a *ḥadīth*,

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[319] The Shaykh said elsewhere that when *ja'ālah* is cancelled by the hirer, then the worker receives his payment from the agreed fee and not from the market wages assessed for the work done so far. See *al-Mukhtarāt al-Jalliyyah*, pg. 95.

[320] Bukhārī recorded this *ḥadīth* in his *Ṣaḥīḥ*, 4/417. Ibn Ḥajar has put another tradition in *Balūgh al-Marām* following this one and ascribed it to Imam Muslim. However, it was not found in the *Ṣaḥīḥ* of Imām Muslim.

[321] The Shaykh said elsewhere that if a person employed by someone produces something or carries something and destroys the item, then he still deserves the wages even if he did not hand over the item to the owner. This is only the case when he does not cause harm to the item intentionally. See *al-Mukhtārāt al-Jalliyyah*, pg. 89.

أَعْطُوا الْأَجِيرَ أَجْرَهُ، قَبْلَ أَنْ يَجِفَّ عَرَقُهُ.

"Give the laborer his wage before his sweat dries."[322]

[322] Ibn Mājah, no. 2443; al-Bayhaqī, 6/121.

-Chapter-
Luqaṭah (Lost object) and *Laqīṭ* (Foundling)

Luqaṭah is of three types:

1. Its value is small, such as a whip, a loaf of bread, and anything similar. It is permissible [for the person who finds it] to keep it and benefit from it without announcing it.
2. Stray animals from whom predators stay away from, such as camels. They cannot come into the ownership of the one who finds it.
3. That which is not part of the first two categories. It is permissible to pick it up and own it, if the found property has been announced for a complete year. Zayd b. Khālid al-Juhanī related,

   جَاءَ رَجُلٌ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَسَأَلَهُ عَنِ اللُّقَطَةِ، فَقَالَ: «اعْرِفْ عِفَاصَهَا وَوِكَاءَهَا، ثُمَّ عَرِّفْهَا سَنَةً، فَإِنْ جَاءَ صَاحِبُهَا وَإِلَّا فَشَأْنَكَ بِهَا» قَالَ: فَضَالَّةُ الغَنَمِ؟ قَالَ: «هِيَ لَكَ أَوْ لِأَخِيكَ أَوْ لِلذِّئْبِ»، قَالَ: فَضَالَّةُ الإِبِلِ؟ قَالَ: «مَا لَكَ وَلَهَا، مَعَهَا سِقَاؤُهَا وَحِذَاؤُهَا، تَرِدُ المَاءَ وَتَأْكُلُ الشَّجَرَ حَتَّى يَلْقَاهَا رَبُّهَا».

   A man came to the Prophet and asked him about lost property (*luqaṭah*) that is found. He said, "Familiarise yourself with its description and what is inside it, then announce it for a year. If the owner does not come forward, then it is yours to do with it [as you will]." The man asked, "[What if it is] a stray sheep?" He answered, "It is for you, your brother, or the wolf." The man asked, "[What if it is] a stray camel?" He said, "What concern is it of yours? It has its water and hoofs, and will find water and eat from the plants until its owner finds it."[323]

Picking up the *laqīṭ* (foundling) and caring for it is *farḍ al-kifāyah*.[324] If

[323] Bukhārī, 5/91; Muslim, no. 1722
[324] It is an obligation that has to be fulfilled by the Islamic community. If a certain group fulfills the duty then the obligation is lifted from the entire community. However, if no

the [Muslim] Treasury is unable to provide for and care for the *laqit*, then it becomes binding on the individual who finds it.

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one fulfills it then the sin of it will fall upon the entire community. [TN]

-CHAPTER-
COMPETITION AND CONTEST

Competition is of three types:

1. A type which is permissible, whether it has a prize associated with it or not, and applies to competition between horses, camels, and archery.[325]
2. A type which is permissible only when no prize is associated with it; it involves all forms of competition other than the three mentioned above.
3. A type which is absolutely impermissible, such as dice games (*al-nard*)[326], chess (*shaṭranj*), and anything similar, because they are all categorically forbidden. This is due to the *ḥadith*,

   لَا سَبَقَ إِلَّا فِي خُفٍّ، أَوْ نَصْلٍ، أَوْ حَافِرٍ.

   "There is no competition except in camel racing, swordplay, or horse racing."[327]

As regards to other forms of competition, then they are included under gambling.

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[325] The Shaykh said elsewhere that Shaykh ibn Taymiyyah opted for the view that other things may be added to these three that come under the same meaning, as it strengthens our ability to obey Allah, carry out jihad in His cause, and prolong academic activity. The reason is that the wisdom in allowing to take wages in these three fields is found in every other activity that shares the objective of these. Therefore, this view is preferable on the basis of argument. See *al-Irshād*, pg. 150.

The Shaykh also said that it is permissible to compete in horse races, camel races, and archery for a prize, even if the those who are competing are not participating in the prize that is to be awarded to the winner These sports are not conditional with the provision of *muhallal*. All forms of gambling other than these three are prohibited. These three are allowed only because of their positive use The *ḥadith* that is often quoted to prove the condition of *muhallal* has been declared unreliable by a great number of the scholars of *ḥadīth*. See *al-Mukhtarāt al-Jalliyyah*, pg. 90.

[326] *Al-nard* is table game in which stones and two dices are used, and it is based on luck. Movements of the stones are determined according to the number of points shown on the dice. It is commonly known as *al-ṭāwilah* (backgammon).

[327] Aḥmad, 2/474; Abū Dāwūd, no. 2564; al-Tirmidhi, no. 1700, who called it *ḥasan*; al-Nisā'ī, 6/226.

-Chapter-
Usurping of [Property] (*Ghaṣb*)

Ghaṣb is the seizure of another person's property without right. It is prohibited due to the narration,

> مَنِ اقْتَطَعَ شِبْرًا مِنَ الأَرْضِ ظُلْمًا، طَوَّقَهُ اللهُ إِيَّاهُ يَوْمَ الْقِيَامَةِ مِنْ سَبْعِ أَرَضِينَ
>
> "Whoever usurps a piece of land without right, Allah will cause him to bear it on the Day of Judgment [around his neck like a yoke] down to the seven earths."[328]

The usurper is responsibile to return the usurped property to its owner even if it costs him more that it's worth.[329] He is also responsibile to give indemnity for whatever depreciation occurs to it, to pay its rent for the period during which it remains in his hand, and to guarantee it in case it is damaged in any way.[330] However, any increase in it belongs

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[328] Bukhārī, 6/392; Muslim, no. 1610.

[329] The Shaykh said elsewhere, "The correct opinion is that the usurper is responsible for the loss done to the usurped item in whatever form it was when usurped, even if it has caused a decrease in the market value of other things that are the same." See *al-Mukhtārāt al-Jaliyyah*, pg. 92.

[330] The Shaykh wrote elsewhere that there are three types of hands that lay on the property of others:

- The transgressing hand: laying hands on another person's property unjustly.
- The immediate hand: whoever unjustly destroys a soul or an asset knowingly, inadvertently, or in ignorance is bound to guarantee its return [in kind or its value].
- The causing hand: if a person does something to an item that is the property of another, or lies in the path, or causes its destruction by committing an unlawful act, it is termed as the causing hand. This violator is subject to guarantee its replacement.

However, if the second and third occur simultaneously, then the replacement will be of the second kind. If that is not possible for him than it will be of the third kind. See *al-Irshād*, pg. 148.

Thus, the implication is that if a person owns an animal or keeps is under his care, which assaults another person, then he is not responsible for the damage caused, as the Prophet said, "There is no liability on the animal." However, if the person is oppressive himself or the animal he owns is known for causing harm to others, or the owner shows carelessness, or the animal destroys something during the night, or it does so when the owner had control over it, or he left the animal near something that it readily destroys, then in all these cases the owner is judged to be a transgressor and is forced to pay the price of the damage. See *Nūr al-Baṣā'ir*, pg. 37.

to its rightful owner.[331]

If [the usurped property] is a land on which the usurper has planted seeds or erects a building, then its [true] owner can uproot the plants or [demolish] the building. This is due to the narration, "The unjust has no right."[332] Whoever knowingly comes into possession of something that was usurped, then the ruling concerning him is similar to the usurper.

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[331] The Shaykh said elsewhere that when the item is unrightfully changed into a another thing, for example when wood is carved into a door or iron is caste into pots, then that thing goes to the original owner. However, if the item goes through a complete change, for example an egg hatches into a chicken or grain grows into plants, then it is a type of destruction of the original Therefore, in such cases the confiscator is forced to pay back the original owner either in kind or in value. See *al-Mukhtārāt al-Jaliyyah*, pg. 92.

[332] Abū Dāwūd, no. 3073; al Tirmidhī, no. 1378, who called it *hasan gharib*. Ibn Hajar declared this *hadīth* as *hasan* in *al-Balūgh al Marām*. Having mentioned the *isnād* of the *hadīth* in *al-Fath* (5/14) he writes, "The *isnāds* of this tradition invite some objections. However, they strengthen one another."

The Shaykh said in *Nūr al Baṣā'ir* (pg.36), "As for other than the oppressor, like for example when a tenant makes a plant nursery or a building on the rented land, then these deserve to be kept intact. However, both the tenant and the landlord should agree on keeping it intact based on rent. The owner may also buy the building from the tenant on payment a cycle, and they may also agree on any other terms."

-CHAPTER-
LOANS ('ĀRIYAH) AND DEPOSITS (WADĪ'AH)

'Ariyah means loaning an item to another for use. It is something that is recommended and is included among the benevolent and kind deeds. The Prophet said, "Every good act is a charity."[313] If the [owner] stipulates that [the loaned object] be guaranteed, then the borrower is bound to gurantee it. If the borrower violates or is negligent in regards to this, then he fulfills the rights of the gurantor; otherwise, he is not bound to guarantee it.

Whoever is given a *wadī'ah* (deposit) should keep it in a secure place that is assigned for keeping similar things, and he is not allowed to use it without the permission of the owner.

[313] Bukhārī, 10/447; Muslim, no. 1055.

-Chapter-
Preemption (*Shuf'ah*)

Shuf'ah is the right of a partner to take first possession of the share of his partner when the latter wishes to transfer ownership [of his share] either through a sale or something else. This [preemption] is specific to cases of non-demarcated property,[334] due to the narration of Jābir which states,

قَضَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِالشُّفْعَةِ فِي كُلِّ مَا لَمْ يُقْسَمْ، فَإِذَا وَقَعَتِ الْحُدُودُ، وَصُرِّفَتْ الطُّرُقُ فَلاَ شُفْعَةَ.

> "The Prophet ruled for preemption in all cases of non-demarcated property. If there are clear boundaries and the roads are fixed, then there is no preemption."[335]

The use of fraud is not permitted in order to try and circumvent preemption.[336] If fraud is used, it does not cause preemption to become

[334] The scholars unanimously hold the right to *shuf'ah* in vast estates that are compulsorily distributed. However, they differ over the application of the right to shops, stores, and small houses as their coverage area is small This type of estate is not essentially distributed. Ibn Taymiyyah, Shaykh Sa'di, and the Grand Council of Scholars in Saudi Arabia have affirmed the right to *shuf'ah* in this case as well. They base their view on:

1. The fact that the right to *shuf'ah* has been stated in a general fashion.
2. The tradition ascribed to the Prophet, "A partner has the right to *shuf'ah* in everything."
3. The fact that *shuf'ah* has been instituted to safeguard the partners from all harms and in these types of estates the loss to the partner is greater

The Shaykh has affirmed elsewhere that the right to *shuf'ah* does not go away with the death of the partner, and is instead transferred to his inheritors who stand in his stead. See *al-Mukhtārāt al-Jaliyyah*, pg. 94

[335] Bukhārī, 4/436; Muslim, 1608.

[336] The Shaykh stated elsewhere that *shuf'ah* (right of preemption) is legally similar to other rights. It does not expire until we have proof that the person has foregone his right with free consent. This is because the Lawgiver has instituted this law to remove the possible harm from the partners in an estate Therefore, nothing other than an open verbal or tacit consent from the partner can suspend what the Lawgiver has instituted. The partner who has the right to seek the right of preemption may not hastily contest the issue so that he has time to ponder over the matter and decide A hasty action by him is against the lenience strongly recommended by the *shari'ah* As for the following two *hadiths* they are not sound: 1) "*Shuf'ah* is like unfettering the shackles of a camel," and 2) "*Shuf'ah* is for the one who instantly files for it." See *al-Mukhtārāt al-Jaliyyah*, pg. 93.

void, and this is based on the narration, "All actions are judged according to their intentions."

-Chapter-
Endowment (*Waqf*)

Waqf is to withhold a thing [from the wealth] and use it to benefit others for Allah's sake. It is from the best and most beneficial deeds of gaining closeness [to Allah], if it is done righteously and free from oppression.[337] This is due to the narration,

إِذَا مَاتَ الْإِنْسَانُ انْقَطَعَ عَنْهُ عَمَلُهُ إِلَّا مِنْ ثَلَاثَةٍ: إِلَّا مِنْ صَدَقَةٍ جَارِيَةٍ، أَوْ عِلْمٍ يُنْتَفَعُ بِهِ، أَوْ وَلَدٍ صَالِحٍ يَدْعُو لَهُ.

"When a person dies his deeds are cut off except for three things: continuous charity, knowledge that benefits [others], or a righteous son that supplicates for him."[338]

Ibn 'Umar related,

أَصَابَ عُمَرُ أَرْضًا بِخَيْبَرَ، فَأَتَى النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَسْتَأْمِرُهُ فِيهَا، فَقَالَ: يَا رَسُولَ اللهِ، إِنِّي أَصَبْتُ أَرْضًا بِخَيْبَرَ، لَمْ أُصِبْ مَالًا قَطُّ هُوَ أَنْفَسُ عِنْدِي مِنْهُ، فَمَا تَأْمُرُنِي بِهِ؟ قَالَ: «إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا، وَتَصَدَّقْتَ بِهَا»، قَالَ: فَتَصَدَّقَ بِهَا عُمَرُ، أَنَّهُ لَا يُبَاعُ أَصْلُهَا، وَلَا يُبْتَاعُ، وَلَا يُورَثُ، وَلَا يُوهَبُ، قَالَ: فَتَصَدَّقَ عُمَرُ فِي الْفُقَرَاءِ، وَفِي الْقُرْبَى، وَفِي الرِّقَابِ، وَفِي سَبِيلِ اللهِ، وَابْنِ السَّبِيلِ، وَالضَّيْفِ، لَا جُنَاحَ عَلَى مَنْ وَلِيَهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ، أَوْ يُطْعِمَ صَدِيقًا غَيْرَ مُتَمَوِّلٍ فِيهِ

"'Umar gained some land in Khaybar, so he went to the Prophet to ask his advice concerning it. He said, 'Messenger of Allah, I have acquired some land in Khaybar whose worth I have never had before. What do you command me to do with it?.' The Prophet said, 'If you want, you can create a charitable trust and give

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[337] The Shaykh has declared sound the opinion of the jurists that it is a necessary condition for a *waqf* to be valid that it be directed to doing good to the beneficiary. This implies that a *waqf* to some of the inheritors may be allowed and valid, and to some it may not be allowed and be inapplicable See *al-Mukhtārāt al-Jaliyyah*, pg. 96.

The Shaykh also said that the scholars are unanimous on the fact that for a *waqf* to be valid it must comprise of the intention to obtain closeness to Allah, therefore the *waqf* by a man who is under debt is not valid as it harms the purpose of attaining closeness to Allah. This is even true of the debtor who creates a *waqf* for the intention of strategically placing his assets out of the reach of his creditors.

[338] Muslim, no. 1631.

its produce away in charity.' So 'Umar give it in charity on the condition that the property not be sold, inherited, or given away as a gift, and its proceeds distributed to the poor, the nearest relatives, emancipation of slaves, those in the path of Allah, the wayfarers, and the guests. As for the adminstor of the asset, there is no sin on him if he eats from it in a reasonable manner or feeds his friends, and does not hoard up goods [for himself]."[339]

The best type of *waqf* is that which benefits the Muslims the most. It becomes binding with any speech or action that would indicate that it is an endowment. As for its conditions and where its yield can be spent, they are all contingent on the stipulation of the endower, as long as they are in agreement with the *sharī'ah*. The endowment is not to be sold except if it is no longer of benefit, at which point it is sold and the proceeds are used in a similar endowment or part of a similar endowment.

[339] Bukhārī, 5/354; Muslim, no. 1632. Muslims has the addition at the end, "He [the narrator] said, 'I narrated this hadith to Muhammad, but as I reached the [words], "without hoarding [for himself] out of it," he [Muhammad] said, " It means, without storing the property with a view to becoming rich."'" Ibn 'Awn said, "He who read this book [pertaining to *waqf*] informed me that in it [the words are], "without storing the property with a view to becoming rich."

-Chapter-
Gifts (*Hibah*), Gratuity (*'Atiyyah*), and Bequests (*Waṣiyyah*)

They are a type of donation contracts.

- *Hibah* is the donation of wealth by an individual while he is alive and healthy.
- *'Atiyyah* is the donation of wealth [by an individual] while sick from an illness from which death is feared.
- *Waṣiyyah* is wealth that is donated after the death [of an individual].

All of these forms fall under the category of charity and benevolent deeds.

Hibah is taken from a person's wealth, while *'atiyyah* and *waṣiyyah* are taken from one third of the wealth or less to someone other than an heir. If it exceeds one third of the wealth or it is given to an heir, then it is contingent on the approval of the other heirs who are of sound mind, because equity among his children should be observed in all these three forms. This is based on the narration,

اتَّقُوا اللهَ وَاعْدِلُوا بَيْنَ أَوْلَادِكُمْ.

"Fear Allah and be equitable among your children."[340]

Once *hibah* has been donated and been accepted by the receipent, then it is not permissible to ask for its return.[341] This is due to the *hadīths*,

العَائِدُ فِي هِبَتِهِ كَالكَلْبِ يَقِيءُ ثُمَّ يَعُودُ فِي قَيْئِهِ

"The one who takes back a gift is like a dog who vomits and then eats its vomit."[342]

لَا يَحِلُّ لِرَجُلٍ مُسْلِمٍ أَنْ يُعْطِيَ الْعَطِيَّةَ ثُمَّ يَرْجِعَ فِيهَا إِلَّا الْوَالِدُ فِيمَا يُعْطِي وَلَدَهُ.

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[340] Bukhārī, 5/211; Muslim, no. 1623.

[341] *Al-'aqūd al-'aniyyah* are contracts that are not binding until the item is passed to the possession of the other party. These are of five kinds: *al-hibah* (gift), *al-rahn* (security/pledge), *al-i'ārah* (transference), *al-idā'* (deposition/entrustment) and *al-qarḍ* (loan).

[342] Bukhārī, 5/234; Muslim, no. 1622.

> "It is not permissible for a Muslim to give a gift and then take it back, except for a father concerning what he has given to his son."[343]

Also, it has been reported that the Prophet would accept a gift and reciprocate the giver.[344]

The father can take from his son's wealth what he wills except if:

- The son is harmed by it.
- It is taken to give to another son.
- It is taken during an illness of either one of them that leads to death.

The permissibility [of the father taking from the wealth of his son is] evident from the following *ḥadīth*,

أَنْتَ وَمَالُكَ لِأَبِيكَ.

> "You and your money belong to your father."[345]

It is reported from ibn 'Umar, in a *marfū' ḥadīth*, that,

مَا حَقُّ امْرِئٍ مُسْلِمٍ، لَهُ شَيْءٌ يُرِيدُ أَنْ يُوصِيَ فِيهِ، يَبِيتُ لَيْلَتَيْنِ، إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ.

> "It is not permissible for any Muslim who has something to bequest to stay for two nights without having his will written and kept with him."[346]

Also the *ḥadīth*,

إِنَّ اللهَ قَدْ أَعْطَى كُلَّ ذِي حَقٍّ حَقَّهُ فَلَا وَصِيَّةَ لِوَارِثٍ.

> "Allah has given everyone their rights, so there is no bequest for an heir."[347]

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[343] Aḥmad, 2/182; Abū Dāwūd, no. 3539; al-Nisā'ī, 6/264; ibn Mājah, no. 2378; al-Bayhaqī, 6/178; al-Albani called it authentic in *al-Irwā'*, no. 1622 & 1624.

[344] Bukārī, 5/210.

[345] Abū Dawūd, no. 3530; ibn Mājah, no. 2292. Ibn Ḥajar says, "Combining together all the different and independent *isnads* of the narration lend strength to it and make it a worthy source to plead to." See *al-Fatḥ*, 5/115.

[346] Bukhārī, 5/355; Muslim, no. 1627.

[347] Aḥmad, 5/167; Abū Dāwūd, no. 2870; al-Tirmidhī, no. 2120 who called it *ṣaḥīḥ*; ibn Mājah, no. 2713; al-Bayhaqī, 6/264.

Another version has the words, "Except with the consent of the heirs."[348]

The person whose wealth is not enough to leave the heirs well off should not donate any of it; rather, he should leave the entire inheritance to his heirs.[349] The Prophet said,

إِنَّكَ أَنْ تَذَرَ وَرَثَتَكَ أَغْنِيَاءَ، خَيْرٌ مِنْ أَنْ تَذَرَهُمْ عَالَةً يَتَكَفَّفُونَ النَّاسَ.

"That you leave your heirs rich is better than to leave them needy, begging from people."[350]

Good is sought in all the affairs.

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[348] Al-Dāraqutnī recorded this narration in *al-Sunan*, pg. 466. Al-Bayhaqī, 6/263, also recorded this tradition as *marfū'* from 'Aṭā' from ibn 'Abbās. However, al-Bayhaqī himself explains that this is 'Aṭā' al-Khurāsānī, who did not meet ibn 'Abbās. Al-Ḥāfiẓ ibn Ḥajar says about him in *al-Taqrīb*, "He is *ṣaduq*. He is *sadūq yahimu*, commits, *irsāl* and *tadlīs*." The same narrative has been reported by al-Bayhaqī (6/264) through Ismā'īl, b. Muslim from al-Ḥasan from 'Amr b. Khārijah in *marfū'* form. He adds, "The *ḥadīth* is *ḍa'īf* and has been reported through another chain as well."

Al-Albānī, in *Irwā' al-Ghalīl* (6/96), judged the narrative under discussion to be *munkar*. It has been narrated on the authority of ibn 'Abbās and 'Amr b. Khārijah. Whereas the other versions of the same narration, which have been reported on the authority of a number of Companions, do not contain the addition, "Except if the inheritors approve it." This expression has been reported in the *ḥadith* of al-Dāraquṭnī (pg. 466) from 'Amr b. Shu'ayb from his father from his father in *marfū'* form. Ibn 'Abd al-Hādī says in his *al-Tanqīḥ* (2/247), "No one from among the authors of the *Sunan* have reported it. The *isnād* includes Sahl b. 'Uthmān whom al-Ḥakim declared a liar." Ibn Ḥajar says in *al-Takhlīṣ* (3/92), "Its *isnād* is *wāhin* (extremely weak)."

[349] The Shaykh said elsewhere that the *sunnah* obliges a person who has lots of wealth and whose inheritors are wealthy to bequeath one fifth of his inheritance to acts of piety benefitting other than his inheritors. This achieves rewards for him and them. It also saves the inheritors from the evil of dispute between them concerning the will. If he wishes to do good toward his children, he should not bequeath anything and leave the inheritance to be distributed among them according to the laws of inheritance pronounced by Allah in His Book. The general practice of the people [today] is to bequeath their shares only to their children and grandchildren, which is against the Shari'ah and reason. This practice not only harms the person bequeathing, but also the beneficiaries as it causes envy and enmity among them. It also makes them rely on the wealth they obtain in this manner and causing them to become lazy. See *Nūr al-Baṣā'ir*, pg. 42.

[350] Bukhārī, 5/363; Muslim, no. 1628.

Book of Inheritance
(*Kitāb al-Mawārīth*)

Mawārīth is the division of the inheritance between those who have a legal right to it. The proof for it is Allah's saying,

﴿ يُوصِيكُمُ ٱللَّهُ فِىٓ أَوْلَـٰدِكُمْ ۖ لِلذَّكَرِ مِثْلُ حَظِّ ٱلْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَآءً فَوْقَ ٱثْنَتَيْنِ فَلَهُنَّ ثُلُثَا
مَا تَرَكَ ۖ وَإِن كَانَتْ وَٰحِدَةً فَلَهَا ٱلنِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَٰحِدٍ مِّنْهُمَا ٱلسُّدُسُ مِمَّا تَرَكَ إِن كَانَ
لَهُۥ وَلَدٌ ۚ فَإِن لَّمْ يَكُن لَّهُۥ وَلَدٌ وَوَرِثَهُۥٓ أَبَوَاهُ فَلِأُمِّهِ ٱلثُّلُثُ ۚ فَإِن كَانَ لَهُۥٓ إِخْوَةٌ فَلِأُمِّهِ ٱلسُّدُسُ ۚ مِنۢ بَعْدِ
وَصِيَّةٍ يُوصِى بِهَآ أَوْ دَيْنٍ ۗ ءَابَآؤُكُمْ وَأَبْنَآؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةً مِّنَ
ٱللَّهِ ۗ إِنَّ ٱللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿١١﴾ وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَٰجُكُمْ إِن لَّمْ يَكُن لَّهُنَّ
وَلَدٌ ۚ فَإِن كَانَ لَهُنَّ وَلَدٌ فَلَكُمُ ٱلرُّبُعُ مِمَّا تَرَكْنَ ۚ مِنۢ بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَآ أَوْ
دَيْنٍ ۚ وَلَهُنَّ ٱلرُّبُعُ مِمَّا تَرَكْتُمْ إِن لَّمْ يَكُن لَّكُمْ وَلَدٌ ۚ فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ
ٱلثُّمُنُ مِمَّا تَرَكْتُم ۚ مِّنۢ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَآ أَوْ دَيْنٍ ۗ وَإِن كَانَ رَجُلٌ يُورَثُ
كَلَـٰلَةً أَوِ ٱمْرَأَةٌ وَلَهُۥٓ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَٰحِدٍ مِّنْهُمَا ٱلسُّدُسُ ۚ فَإِن كَانُوٓا۟ أَكْثَرَ مِن
ذَٰلِكَ فَهُمْ شُرَكَآءُ فِى ٱلثُّلُثِ ۚ مِنۢ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَآ أَوْ دَيْنٍ غَيْرَ مُضَآرٍّ ۚ وَصِيَّةً مِّنَ
ٱللَّهِ ۗ وَٱللَّهُ عَلِيمٌ حَلِيمٌ ﴿١٢﴾ تِلْكَ حُدُودُ ٱللَّهِ ۚ وَمَن يُطِعِ ٱللَّهَ وَرَسُولَهُۥ يُدْخِلْهُ جَنَّـٰتٍ

تَجْرِي مِن تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۚ وَذَٰلِكَ الْفَوْزُ الْعَظِيمُ ﴿١٣﴾ وَمَن يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُّهِينٌ ﴿١٤﴾

Allah commands you in regards to your children: the male shall have a share equal to that of two females. If [there are] only daughters, two or more, they shall have two-thirds of the inheritance, and if there is only one, her share is half. For the parents, a sixth of the inheritance to each if the deceased left behind children; if [he leaves] no children, and the parents are the [sole] heirs, the mother has a third; if the deceased left brothers or [sisters], the mother has a sixth. [In all cases the distribution comes] after the payment of any bequests or debts. You know not which of them, your parents or your children, are of more benefit to you: this is an ordinance from Allah. Allah is All Knowing, Wise. You inherit half of what your wives leave, if they have no child; but if they leave a child, then you shall receive a fourth of what they leave behind, after payment of bequests or debts. They [your widows] shall receive a fourth, if you leave no child; but if you leave a child, then they shall receive an eighth of what you leave behind, after payment of bequests or debts. If a man or a woman, whose inheritance is in question, has left neither ascendants[151] nor descendants,[152] but has left a brother or a sister, each of them shall inherit a sixth; but if there are more, they share in a third, after payment of bequests or debts, with no harm caused [to anyone]. This is a commandment from Allah. Allah is All Knowing, Most Forbearing. These are the limits [set by] Allah. Whoever obeys Allah and His Messenger will be admitted to Gardens through which rivers flow, to abide in. That is the supreme triumph. But whoever disobeys Allah and His Messenger, and transgresses His limits, He will cast him into the Fire, to abide in; a humiliating torment awaits him. (Q, 4:11-3)

Also at the end of the *Sūrah* [*al-Nisā'*, Allah says],

﴿يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ ۚ وَهُوَ يَرِثُهَا إِن لَّمْ يَكُن لَّهَا وَلَدٌ ۚ فَإِن كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ ۚ وَإِن كَانُوا إِخْوَةً

[151] Ascendants refers to any parent, grandparent, great-grandparent and so forth. [TN]
[152] Descendants refers to any child, grandchild, great-grandchild, and so forth. [TN]

رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۗ يُبَيِّنُ اللَّهُ لَكُمْ أَن تَضِلُّوا ۗ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ ﴿١٧٦﴾

> They ask you for a verdict. Say, "Allah gives you a verdict about [inheritance from] a person who leaves no heir in the direct line.[353] If a man dies childless, leaving a sister, she shall have half the inheritance. If the woman is childless, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. Allah makes all this clear to you lest you go astray. Allah is All Knowing of everything." (Q. 4:176)

It is related by ibn 'Abbās that the Prophet said,

أَلْحِقُوا الْفَرَائِضَ بِأَهْلِهَا، فَمَا بَقِيَ فَلِأَوْلَى رَجُلٍ ذَكَرٍ.

> "Give the legal shares to those who are entitled, and what remains should go to the nearest male relative."[354]

The [above] noble verses along with the narration from ibn 'Abbās cover the majority of the rulings of inheritance, which have been mentioned in detail along with its conditions. Allah made the paternal male and the female children, grandchildren from the son, and full or consanguine brothers, whenever they are present, divide the inheritance amongst themselves. Whatever inheritance remains after the legal heirs (*aṣḥab al-furū'*) have taken their share is distributed on the basis of the male receiving a portion equal to two females. The mentioned males take the inheritance or what is left after the legal shares have been distributed.

A single [daughter] gets half of the inheritance, and if there are two or more, they [share in] two thirds. If there is a daughter and a daughter from the son, then the daughter will get half, and the the son's daughter will get a sixth, which completes two thirds. Likewise, this applies to full sisters and consanguine sisters in the case of *kalālah*, i.e., where the deceased leaves neither descendants nor ascendants as heirs. If the daughters take up the entire two third, then the daughters that are lower [in the chain of lineage], who are the daughters of the son [of the deceased] are dropped from [the inheritance], unless a male

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[353] The word used here is *al-kalalah* which refers to those who leave neither descendants nor ascendants as heirs. [TN]

[354] Būkhārī, 12/11; Muslim, no. 1615.

is present, either of the same degree [of relationship] or lower, and in this case the daughters are treated as *'aṣabah* (residual heirs). The same applies to full sisters who drop consanguine sisters in case they are not made *'aṣabah* through the presence of a brother. As for uterine siblings: if there is only one then he takes a sixth, and if there are two or more then they take a third: the male getting a share equal to the female. However, they do not inherit in the presence of *furū'* (legal heirs from the descendents) under any condition or in the presence of *uṣūl* (ascendents).

The husband is entitled to half of the inheritance [left behind by his deceased wife] in the absence of any chidren from her, and a fourth in their presence. The wife is entitled to a fourth in the absence of any children from the husband and an eighth in their presence. The mother is entitled to a sixth in the presence of a child or one or more brother or sister, and a third in their absence.[355] She is also entitled to a third of what remains in the case she is accompanied by the husband and the parents, or the wife and the parents. The Prophet assigned a sixth to the grandmother in the case where there is no mother.[356] The father receives a sixth, and no more, in the presence of male offspring; if they are female, then he receives a sixth, and whatever remains after the legal heirs have taken their share, he receives it as an *'aṣabah*;[357] this is also the case if there are no children.

Likewise all males, other than the husband and the maternal brother are *'aṣabah* and inherit without a set prescribed amount. They include:

1. Full or consanguine brothers and their sons.
2. Full or paternal uncles and their sons; uncles of the deceased, and all the ascendant uncles.

[355] The Shaykh said that the correct opinion is that *maḥjūb* siblings do not deprive the mother of a third [of the inheritance]. He mentions that the governing principle in the shares of inheritance is that the one who does not have a determined share by the *sharī'ah* from a relative's wealth does not cause another relative to lose his share. See *Al-Mukhtārāt al-Jaliyyah*, pg. 100.

[356] Abū Dāwūd, no. 2895; al-Nisā'ī, *al-Kubra*, 4/73; al-Dāraquṭnī, no. 74; al-Bayhaqī, 6/234. Ḥāfiẓ b. Ḥajar said, "The *isnād* contains 'Ubayd Allah al-'Atakī, about whom the scholars of *hadith* differ concerning his status as narrator. Ibn al-Sakan declared him reliable." See *al-Talkhīs*, 3/96. The author of *al-Balūgh* (pg. 810) said, "Ibn Khuzaymah and ibn al-Jārūd declared him sound. Ibn 'Adī declared him strong."

[357] *Al-'Aṣabat* refers to all those inheritors whose shares are not determined initially by the *sharī'ah*, but are awarded a share in what is left after distributing the shares to the legal heirs (*aṣḥāb al-farūḍ*). However, when one of the *'aṣabāt* is the lone heir, then he gets all the wealth. [TN]

3. Sons and grandsons.

The ruling of the residual heir (*'āṣib*) is the following:

a. Inherits the entire estate if he is by himself [and not accompanied by any other heir].
b. If he is accompanied by a legal heir (*dhū farḍ*) [who has a set inheritance], then he takes the remaining inheritance after distribution.
c. If the entire inheritance is inherited by the legal heirs, then the residual heir will receive nothing, knowing that it cannot be consumed in the presence of a paternal son or the father.

If there are two or more residual heirs, then priority is given in the following order:

1. Sons
2. Fathers
3. Brothers and their sons
4. Uncles and their sons
5. Emancipated male slave, including the freed slave and his *'aṣabah*, who become *'asabah* by themselves.

Therefore, priority is given to those who are nearest in relationship to the deceased. If they are of the same degree of relationship, then priority is given to the one who has closer blood ties. If they are equal in their closeness, then priority is given to the one who has the strongest blood ties, that is, a full relationship is given priority over a paternal relationship. The sisters of every agnate heir, other than the sons and brothers, do no inherit along with them. If the inheritance of the legal heirs exceeds the amount of the estate, and none of them exlude the others from a share, then the issue becomes one of *'awl*[358], and is applied according to their shares, as follows:

1. If the case involves a husband, a mother, and a non-maternal sister, in which case the original denominator was six, the new denominator would increase to eight [to accommodate all the heirs].

[358] *'Awl* occurs when the percentage of each heir is proportionately decreased so that the total amount does not exceed 100%. [TN]

2. If the case instead involves a maternal brother, then it is similar to the one above.
3. If they were two [brothers], the denominator would increase to nine.
4. If the non-maternal sisters are two, the denominator will increase to ten.
5. If there are two daughters, a mother, and a husband, the denominator would increase from twelve to thirteen.
6. If they are accompanied by the father, then the denominator is increased to fifteen.
7. If the deceased left behind two wives, two maternal sisters, two non-maternal sisters, and a mother, then the denominator increases to seventeen.
8. If there are two parents, two daughters, and a spouse, then the denominator increases to twenty seven.

If the legal heirs do not consume the entire inheritance and there are no residual heirs to take the remaining share, then the remaining estate is divided amongst the legal heirs according to their percentages.[159] If there are no legal heirs and no residual heirs then the estate is inherited by the *dhawū al-arḥam* (cognate relatives) [who are not connected through the female blood relatives], and they take the place of those who were closer to the deceased.

As for the one who leaves no heirs, then his wealth will go to the national treasury and is spent on public and private interests.

When a person dies then the following four rights should be fulfilled by his estate:

1. Providing for the preparation of the body for burial [i.e., washing and shrouding].
2. Paying off mortagaged and non-mortagaged loans from the entire capital.
3. If he left behind a will [designating charity], then it will be given from one third of the estate to the non-heirs [designated in the will].
4. The remaining estate is divided among the aforementioned

[159] The Shaykh declared that the sound opinion is that the remaining inheritance [after the legal heirs have taken their share] is to be distributed among the spouses as well as the legal heirs as there is no sound evidence in the sources that restricts its extension to only the spouses. See *al-Mukhtārāt al Jaliyyhah*, pg. 101.

[legal] heirs, and Allan knows best.

That which causes an individual to become an heir are the following:

1. lineage,
2. marriage,[360] and
3. *walā'* (inheritance through patronage).

The following three things will preclude the heir from inheriting:

1. murdering [the benefactor],
2. slavery, and
3. difference of religion [between the benefactor and the heir].[361]

If some of the heirs are fetuses, missing persons,[362] or people of a similar nature, then caution is observed and their share is held for them. If the heirs demand the distribution of the inheritance, then necessary precaution is taken according to what the jurists, may Allah the Almighty have mercy on them, have decided.

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[360] A man who dies while he has given his wife an irrevocable divorce during his fatal illness, then his wife inherits from him. However, if he divorces her while he was healthy or not fatally ill, then the wife does not inherit from him. As for the woman whose husband dies while he has issued a revocable divorce to her and she is still in her period of *iddah*, then she inherits from him. However, she must still fulfill her period of *iddah*. See *Nūr al-Baṣā'r*, pg. 46.

[361] The Shaykh deemed sound the opinion that the hypocrite who professes faith and conceals his disbelief, revealing it occasionally, is a valid heir, and his Muslim relatives are also his valid heirs. This is based on the fact that the hypocrites were subject to the laws of Islam during the Prophet's time. They inherited and were inherited from by their Muslim relatives. See *Al-Mukhtārāt al-Jaliyyah*, pg. 102.

[362] The Shaykh declared that the correct opinion is that the missing husband should be waited for until the time that it is believed that he is dead. This waiting period cannot be specified to seventy years or any other length of time as there is no proof that validates this specification; rather, the rulers and scholars should find an opinion on the basis of *ijtihād*. Thus the length of the waiting period may change with the changing of time, place, and individuals involved. See *al-Mukhtārāt al-Jaliyyah*, pg. 101.

The fetus does not become a legal heir until it is born and cries or performs something that registers his birth. See *Nūr al-Baṣā'r*, pg. 45.

-Chapter-
Emancipation (*'Itq*)

'*Itq* is the freeing of a slave from the shackles of slavery. It is from amongst the best acts of worship, due to the *ḥadīth*,

> أَيُّمَا امْرِئٍ مُسْلِمٍ أَعْتَقَ امْرَأً مُسْلِمًا، اسْتَنْقَذَ اللهُ بِكُلِّ عُضْوٍ مِنْهُ عُضْوًا مِنْهُ مِنَ النَّارِ.
> "Any Muslim who emancipates a Muslim slave, for evéy limb that he saves [from slavery] Allah will save his limbs from the fire."[363]

The Messenger of Allah was asked,

> فَأَيُّ الرِّقَابِ أَفْضَلُ؟ قَالَ: أَغْلَاهَا ثَمَنًا، وَأَنْفَسُهَا عِنْدَ أَهْلِهَا.
> "Which slave is best [to emancipate]?" He said, "The [emancipation of the] most expensive slave, and the one most valuable to its owner."[364]

Emancipation can occur through the following ways:

1. Verbally: referring to statements that incorporate the word *emancipation* or other words that denote the same meaning.
2. Ownership: whoever possesses another who is related through birth and is impermissible [for marriage] due to blood relation, then such a slave is freed because of this.
3. Mutilation: by cutting off a slave's limb or burning it.
4. Partial Emancipation: if a slave, who is jointly owned, is freed by one master then he is completely freed. This is due to the *ḥadīth*,

   > مَنْ أَعْتَقَ شِرْكًا لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مَالٌ يَبْلُغُ ثَمَنَ الْعَبْدِ، قُوِّمَ عَلَيْهِ قِيمَةَ الْعَدْلِ فَأُعْطِيَ شُرَكَاؤُهُ حِصَصَهُمْ، وَعَتَقَ عَلَيْهِ الْعَبْدُ، وَإِلَّا فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ.
   > "Whoever emancipates his share of a slave and he has sufficient wealth to free him completely, then he should let the slave's price be estimated by a just person and

[363] Bukhārī, 5/146; Muslim, no. 1509.
[364] Bukhārī, 5/148; Muslim, no. 84.

give his partners the price of their shares and emancipate the slave. If he is unable, then he emancipates the slave partially."[365]

Another wording has the addition,

وَإِلَّا قُوِّمَ عَلَيْهِ، فَاسْتُسْعِيَ بِهِ غَيْرَ مَشْقُوقٍ عَلَيْهِ.

"Otherwise, the [un-emacipated share] is fairly estimated and he [the slave] is ordered to go out and earn a wage, without hardship, so as to emancipate [himself]."[366]

If the master makes emancipation of the slave contingent on his death, then such a slave is called a *mudabbar*, and the slave is emancipated if his freedom is coverd by one third of the deceased master's wealth. It is reported from Jābir that an Ansāri man [had died and] had stipulated the emancipation of his slave upon his death. However, the slave was the only wealth that the deceased had left behind. When this reached the Prophet, he said, "Who will purchase this slave from me?" Nu'aymm b. Abdullah bought him for eight hundred dirhams, and as he [the new owner] had incurred a debt, the Prophet gave him the money and said, "Pay off your debt."[367]

Mukātabah refers to [the contract that the slave enters into] with his master to purchase his freedom from him for a deferred price to be paid in two or more installments at specific times. Allah says,

﴿فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا﴾

"Then write [a contract] with them [for their freedom], if you find that there is good in them." (Q. 24:33)

Know that good here refers to righteousness and capacity to earn their money. However, if it is feard that he might become corrupt if emancipated or made into a *mukātab*, or if he has no means to earn money, then it is not permitted to emancipate him or to promise him freedom in return for a price.

A slave who is under contract to purchase his freedom is not freed until he has paid the [total] agreed upon price for his freedom. This is due to the *ḥadīth*,

[365] Bukhārī, 5/151; Muslim, no. 1501.
[366] Ibid.
[367] Bukhārī, 11/600 & 13/178; Muslim, no. 997.

الْمُكَاتَبُ عَبْدٌ مَا بَقِيَ عَلَيْهِ مِنْ كِتَابَتِهِ دِرْهَمٌ

> "A slave who has entered into an agreement to purchase his freedom is still a slave as long as a dirham is left outstanding."[368]

It is also reported from ibn 'Abbās in a *marfū'* form and from 'Umar in *mawquf* form,

أَيُّمَا أَمَةٍ وَلَدَتْ مِنْ سَيِّدِهَا فَهِيَ حُرَّةٌ بَعْدَ مَوْتِهِ.

> "Any female slave who gives birth to her master's child becomes free after his death."[369]

However, what is most correct is that it is the statement of 'Umar,[370] and Allah knows best.

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[368] Abū Dāwūd, no. 3926; al-Bayhaqī, 10/324. Al-Albanī called it's *isnād ḥasan* in *al-Irwā'*, no. 1674.

[369] Ibn Mājah, no. 2515; al Ḥākim, 2/19. Al-Dhahabī rejected this tradition saying, "Husayn is *matrūk* (his traditions are not accepted by the scholars of *hadīth*) when he narrates a *marfū'* (a report in which a saying of the Holy Prophet is reported and the *isnād* reaches back to the Holy Prophet) narration on the authority of ibn 'Abbas." He says in al-Zawā'd, "The *isnad* of the narration includes al-Husayb b. 'Abdullah b. 'Ubaydullāh b. 'Abbās. Ibn al-Madini and others declared him as *matrūk*. Abū Ḥātim and others declared him *da'if* (unreliable)." Bukhari says, "He was accused of heresy." Ḥāfiẓ b. Ḥajar declared the *isnad* of this narration weak. See *al-Bulūgh al-Marām*, no. 1247.

[370] Al Bayhaqī, 10/346, al-Dāraqutni, 4/130. Ḥāfiẓ b. Ḥajar says in *al-Talkhīṣ*, "The sound conclusion is that the *hadith* is *mawqūf* (a report in which the chain ends at a Companion and not the Prophet). Abū Dāwūd (no. 3953) and ibn Mājah have recorded this tradition on the authority of Jābir. He says, "We used to sell the slave women with her children during the days of the Prophet and Abū Bakr. When 'Umar assumed the Caliphate he forbade this and we stopped." Ibn Ḥibbān, al-Ḥākim, and al Būṣayrī declared it as *ṣaḥīḥ*, and al-Mundharī declared it *ḥasan*.

Book of Marriage (*Kitāb al-Nikāh*)

Marriage is from among the *sunnah* of the Messengers. It is related in a *ḥadīth*,

> يَا مَعْشَرَ الشَّبَابِ، مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغَضُّ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ، فَإِنَّهُ لَهُ وِجَاءٌ.
>
> "Young people, whoever of you is able to marry should do so, for it lowers the gaze and guards the chastity. Whoever is not able to marry should observe the fast, for it will be a shield for him."[371]
>
> تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا، فَاظْفَرْ بِذَاتِ الدِّينِ، تَرِبَتْ يَدَاكَ.
>
> "A woman is married for four things: her wealth, her lineage, her beauty, and her religion, so choose the one who possesses religion, may your right hand be rubbed in dust[372]."[373]

[371] Bukhārī, 9/112; Muslim, no. 1400.
[372] Ibn Hajar states in *Fath al-Bārī* (10/566), "Ibn as-Sakit said that the original meaning of "may your hand be rubbed in dust" is "may you be needy." It is a phase which is said not intending by it a true supplication, it is only meant to encourage doing that which was mentioned. If the individual was to go against that advice he would lose out. Al-Nahās said that it means that if you do not do it then you are not going to gain anything except dust."
[373] Bukhārī, 9/132; Muslim, no. 1466.

Therefore, a person should choose a wife who is endowed with religious commitment and of noble lineage, who is affectionate and fertile. If an individual decides to propose to a woman, then he should look for attributes that will attract him to marry her.

It is not permissible for a person to propose to a woman whom his Muslim brother has proposed to, until the latter withdraws his proposal or gets his proposal rejected.[374] It is not permissible to publicly mention a proposal to a woman who is in her *'iddah* (waiting period). However, it is permissible to implicitly propose to an irrevocably divorced woman, a widow, or someone similar. This is due to Allah's statement,

﴿ وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُم بِهِۦ مِنْ خِطْبَةِ ٱلنِّسَآءِ ﴾

> "There is no sin on you if you make a hint of marriage or conceal it within yourself." (Q. 2: 235)

The method of implicitly proposing is to say, "I would like someone such as yourself," or, "I hope you do not pass me by," or other statements of a similar nature.

During the marriage contract, a sermon should be delivered which is similar to what was reported by ibn Mas'ud, who said, "The Messenger of Allah taught us to recite *tashahhud* during times of need,

الْحَمْدُ لِلَّهِ نَسْتَعِينُهُ وَنَسْتَغْفِرُهُ وَنَعُوذُ بِاللَّهِ مِنْ شُرُورِ أَنْفُسِنَا وَسَيِّئَاتِ أَعْمَالِنَا مَنْ يَهْدِهِ اللَّهُ فَلا مُضِلَّ لَهُ وَمَنْ يُضْلِلْ فَلا هَادِيَ لَهُ ، وَأَشْهَدُ أَنْ لاَ إِلَهَ إِلاَّ اللَّهُ ، (وَحْدَهُ لاَ شَرِيكَ لَهُ) وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ.

> "All praise be to Allah; we praise Him, seek His help, guidance, and forgiveness. We seek refuge in Allah from the evils of ourselves and from our bad deeds. Whoever Allah guides none can misguide him, and whoever He misguides none can guide him. I bear witness that none has the right to be worshiped except Allah, (He is the one and has no partners), and I bear witness that Muhammad is His slave and Messenger."[375]

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[374] If a man is unaware that another has decided not to suit the woman or he asks the man about his decision on the issue but the latter remains silent and does not respond, then one should not go ahead and propose to the woman. See *al-Mukhtārāt al-Jaliyyah*, pg. 103.

[375] Aḥmad, 1/392, Abū Dāwūd, no. 2118; at-Tirmidhī. No. 1105, who called it *ḥasan*; al-Nisā'ī, 3/104; ibn Mājah, no. 1892.

He then reads the following three verses [from the Qur'an]:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تُقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ ﴿١٠٢﴾﴾

1. "You who believe, fear Allah as he should be feared, and do not die except in a state of submission." (Q, 3:102)

﴿يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ﴿١﴾﴾

2. "People, be dutiful to your Lord, Who created you from a single person, and from him He created his wife, and from them both He created many men and women. Fear Allah through Whom you demand [your mutual rights], and do not severe your kinship. Allah is All Watching over you." (Q, 4:1)

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا ﴿٧٠﴾ يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ وَمَنْ يُطِعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا ﴿٧١﴾﴾

3. "You who believe, maintain your duty to Allah and fear him, and speak the truth. He will direct you to do righteous deeds and will forgive you your sins. Whoever obeys Allah and His Messenger has indeed achieved a great achievement." (Q, 33: 70-71)

Marriage is only contracted through the following:

1. Offer, which is made by the guardian, such as his saying, "I marry you [to my daughter]," or, "I give her to you [in marriage]."
2. Acceptance, which is uttered by the [future] husband or his representative, and can take the form of, "I accept this marriage," or, "I accept," and any statement of a similar nature.[376]

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[376] The Shaykh said elsewhere, "The correct view is that the contracts are valid through any words that signify them. This is equally true of all contracts relating to sale, giving away, renting, marriage, and anything else." See *al-Mukhtārāt al-Jaliyyah*, pg. 69 & 103.

-CHAPTER-
THE CONDITIONS OF MARRIAGE

The marriage contract should contain the consent of both spouses, with the following exceptions:

- An underage girl, who can be married off by her father.[377]
- A female slave, who can be married off by her master.

The guardian of the bride must be present [for the marriage contract],[378] as it has been reported by the Five in an authentic *ḥadīth* that the Prophet said,

لَا نِكَاحَ إِلَّا بِوَلِيٍّ.

"There is no marriage without a guardian."[379]

The one who is most entitled to get a free woman married is:

1. Her father, grandfather, and so forth no matter how high the ascendant.
2. Her son, grandson, and so forth no matter how low the descendant.
3. Then, the closest of her agnate heirs.

In a *ḥadīth*, which is agreed upon [by Bukhārī and Muslim], it states that the Messenger of Allah said,

«لاَ تُنْكَحُ الأَيِّمُ حَتَّى تُسْتَأْمَرَ، وَلاَ تُنْكَحُ البِكْرُ حَتَّى تُسْتَأْذَنَ» قَالُوا: يَا رَسُولَ اللهِ، وَكَيْفَ إِذْنُهَا؟ قَالَ: «أَنْ تَسْكُتَ».

"Do not marry off a divorced woman without her consent, and do

[377] The Shaykh has said that the sound opinion is that a man cannot force his adult and sane daughter to marry someone she does not like. See *al-Mukhtārāt al-Jaliyyah*, pg. 103.

[378] The Shaykh has said that the absolute sound opinion is that *'adālah* (reliability) is not a condition for a *walī*. A sinful person can act as *walī* for the women under his guardianship. See *al-Mukhtārāt al-Jaliyyah*, pg. 4.

[379] Aḥmad, 4/394, al Dāramī, 2/137, Abū Dāwūd, no. 2085, at-Tirmidhī, no. 1101, Ibn Mājah, no. 1881, al-Ḥākim, 2/170, who called it *ṣaḥīḥ*. Bukhārī, Ibn al-Madīnī, Muhammad b. Yaḥyā al-Dhuhlī and others have declared this tradition *ṣaḥīḥ*

> not marry off the virgin until she agrees." They asked, "Messenger of Allah, how does she agree?" He said, "By her remaining silent."[380]

Aḥmad reports that the Prophet said, "Make the marriage known."[381] The ways of making the marriage known: is the witnessing of it by two just people, announcing and publicizing it, beating of the *duff*, and things of a similar nature.

The woman's guardian is not permitted to marry her off to anyone that is not suitable for her. Therefore, a licentious man is not to be matched with a chaste [woman],[382] and the Arabs are a match for each other.[383] If she does not have a guardian, or her guardian has been absent for a long time, or her guardian prevents her from marrying someone that is suitable for her, then the ruler can marry her off. This is established from the *ḥadīth* recorded in the *Sunans* except for al-Nisā'ī,

> السُّلْطَانُ وَلِيُّ مَنْ لَا وَلِيَّ لَهُ.
>
> "The ruler is the guardian for the one who has no guardian."[384]

It is obligatory that the one who is intended for marriage be specified. So [a guardian saying,] "I marry you to my daughter," is invalid if he has more that one daughter unless he specifies his daughter by name or by description. Additionally, there should be no impediments in relation of either of the two [prospective] spouses that my hinder the marriage, such as those mentioned in the Chapter of Prohibited Marriages [which follows].

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[380] Bukhārī, 9/191; Muslim, no. 1419.

[381] Aḥmad, 4/5; at-Tirmidhī, no. 1089; al-Nisā'ī, 6/127. Al-Ṭabarānī has declared it *ṣaḥīḥ*. The Shaykh said, "The wedding banquet is a *mustaḥab* (desirable) act. It is to be arranged according to the prosperity or poverty of the groom. It is however obligatory to accept an invitation to the wedding banquet. People must observe a balance approach in this ceremony, and they should avoid indulging in extravagance." See *Nur al-Baṣa'ir*, pg. 48.

[382] The Shaykh said elsewhere, "The sound opinion is that one of the conditions of a valid marriage is that both the male and the female partners be free from fornication. Therefore, marrying a man who is known for fornication, unless he repents, is not permissible. Similar is the case regarding a woman who is known for committing fornication, unless she repents." See *al-Mukhtārāt al-Jalliyyah*, pg. 104.

[383] This can be because they maintain a similar culture. [TN]

[384] Aḥmad, 6/66; al-Dārami, 2/137; Abū Dāwūd, no. 2083; at-Tirmidhī, no. 1102; ibn Mājah, no. 1879; al-Ḥākim, 2/168, who called it *ṣaḥīḥ* based on the conditions of Bukhārī and Muslim.

-Chapter-
The Prohibited Marriages (*Muharramāt*)

Woman who are forbidden to marry are of two types:

1. Those who are permanently prohibited.
2. Those who are temporarily prohibited.

[Permanently Forbidden Marriage]

As for those who are permanently prohibited, they include:

a. Seven who are prohibited due to kinship,[385] and they are:

   1. Mothers, no matter how high the ascendant.
   2. Daughters, no matter how low the decendant.
   3. [Full and half] sisters.
   4. [Sister's] daughters.
   5. Brother's daughters.
   6. Paternal aunts, no matter how high the ascendant
   7. Maternal aunts, no matter how high the ascendant.

b. Seven who are prohibited due to breatfeeding, and they are similar to the ones mentioned above.
c. Four [who are prohibited] due to marriage,[386] and they are:

   1. Mother-in-laws, no matter how high the ascendant.
   2. Step-daughters, no matter how low the descendant as long as sexual relations has occurred with their mother.
   3. The wives of the fathers, no matter how high the ascendant.
   4. The wives of the sons, no matter how low the descendant, whether through lineage or breastfeeding.

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[385] All women who are included among the blood relatives are prohibited to be taken into marriage except for daughters of paternal aunts and uncles, and daughters of maternal aunts and uncles (i.e., female cousins). See *Nur al-Baṣā'ir*, pg. 49.

[386] The Shaykh has ascertained that adultery and fornication do not entail the family of the partner in the sin to become legally prohibited for him/her to marry. See *al-Mukhtārāt al-Jaliyyah*, pg. 105.

The ruling is based on the words of Allah,

﴿ حُرِّمَتْ عَلَيْكُمْ أُمَّهَٰتُكُمْ وَبَنَاتُكُمْ وَأَخَوَٰتُكُمْ وَعَمَّٰتُكُمْ وَخَٰلَٰتُكُمْ وَبَنَاتُ ٱلْأَخِ
وَبَنَاتُ ٱلْأُخْتِ وَأُمَّهَٰتُكُمُ ٱلَّٰتِىٓ أَرْضَعْنَكُمْ وَأَخَوَٰتُكُم مِّنَ ٱلرَّضَٰعَةِ وَأُمَّهَٰتُ
نِسَآئِكُمْ وَرَبَٰٓئِبُكُمُ ٱلَّٰتِى فِى حُجُورِكُم مِّن نِّسَآئِكُمُ ٱلَّٰتِى دَخَلْتُم بِهِنَّ فَإِن
لَّمْ تَكُونُوا۟ دَخَلْتُم بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَٰٓئِلُ أَبْنَآئِكُمُ ٱلَّذِينَ مِنْ
أَصْلَٰبِكُمْ وَأَن تَجْمَعُوا۟ بَيْنَ ٱلْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ ۗ إِنَّ ٱللَّهَ كَانَ غَفُورًا
رَّحِيمًا ﴿٢٣﴾ وَٱلْمُحْصَنَٰتُ مِنَ ٱلنِّسَآءِ إِلَّا مَا مَلَكَتْ أَيْمَٰنُكُمْ ۖ كِتَٰبَ ٱللَّهِ عَلَيْكُمْ ۚ وَأُحِلَّ لَكُم مَّا
وَرَآءَ ذَٰلِكُمْ أَن تَبْتَغُوا۟ بِأَمْوَٰلِكُم مُّحْصِنِينَ غَيْرَ مُسَٰفِحِينَ ۚ فَمَا ٱسْتَمْتَعْتُم بِهِۦ مِنْهُنَّ فَـَٔاتُوهُنَّ
أُجُورَهُنَّ فَرِيضَةً ۚ وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرَٰضَيْتُم بِهِۦ مِنۢ بَعْدِ ٱلْفَرِيضَةِ ۚ إِنَّ ٱللَّهَ كَانَ عَلِيمًا
حَكِيمًا ﴿٢٤﴾ ﴾

"Forbidden to you [in marriage] are your mothers, your daughters, your sisters, your paternal aunts, your maternal aunts, your brother's daughters, your sister's daughters, your mother who has suckled you,[367] your suckling sisters,[368] your wives' mothers, your step-daughters under your guardianship—born of your wives with whom you have consummated the marriage; but if you have not consummated the marriage then there is no sin on you if you [marry their daughters]—the wives of your begotten sons, and two sisters in marriage simultaneously, except for what has already passed. Allah is Most Forgiving, Most Merciful. [24]Also [forbidden to you are] all married women, other than those whom your right hands possess. This Allah has ordained for you. All other women are lawful to you, provided you seek [them in marriage] with gifts from your property,[369] desiring wedlock rather than fornication. To those with whom you seek to enjoy marriage, give them their dowry as prescribed; but after prescribing the dowry, if you mutually agree to do otherwise, then there is no sin on you. Allah is indeed All Knowing, Wise." (Q. 4:23-24)

It is also based on the following statement of the Prophet,

[367] This is in reference to those women who breast-feed an infant. Islam regards women who breastfeed other people's infants as foster-mothers. [TN]

[368] This is in reference to a foster sister. She is the daughter of the woman that has breast fed an infant and therefore becomes that infant's foster-sister. [TN]

[369] Refers to dowry. [TN]

يَحْرُمُ مِنَ الرَّضَاعَةِ مَا يَحْرُمُ مِنَ الْوِلَادَةِ.

"Whatever is forbidden by breastfeeding is also forbidden by lineage and birth."[390]

[Temporary Forbidden Marriage]

As for those who are temporarly forbidden, they include:

a. Those referred to in the Prophet's statement,

لَا يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا، وَلَا بَيْنَ الْمَرْأَةِ وَخَالَتِهَا.

"A person should neither marry a woman and her paternal aunt, nor a woman and her maternal aunt simultaneously."[391]

b. Those referred to in Allah's statement,

﴿وَأَن تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ﴾

"Two sisters in marriage simultaneously." (Q. 4:23)

It is not permissible for a free man to have more than four wives [simultaneously], or for a slave to have more than two wives [simultaneously]. As for a man who has female slaves, then he can have sexual relations with as many of them as are under his possession.

If a disbeliever embraces Islam while being married to two sisters simultaneously, he should choose one of the two [and divorce the other]. If he has more than four wives, he should choose four and divorce the rest.

Additionally, woman in the following scenarios are forbidden for a man to marry:

1. A woman in the state of *iḥrām*, until she exits from it.
2. A woman in her *'iddah* (waiting period) who has been divorced by another man, until she completes it.
3. The adulteress is for an adulterer; if she repents then she may marry someone else.
4. An irrevocably divorced woman is impermissible for the husband who divorced her until she marries another husband,

[390] Bukhārī, 5/253, 9/139; Muslim, no. 1444 & 1447.
[391] Bukhārī, 9/160; Muslim, no. 1408.

> [is divorced after having sexual relations with him] and then completes her *'iddah*.

It is permissible for a person to own two sisters simultaneously [as slaves]. However, if he has sexual intercourse with one of them, then the other becomes impermissible for him until he makes the former one impermissible for himself by selling her or she gets married, after it is ascertained that she is not pregnant by her master.

As for the suckling relationship which makes a person impermissible for marriage it is that which occurs before weaning and consists of five or more breastfeedings.[192] With that the suckled child and his offspring become foster children of the wet nurse and her husband. The impermisibility of marriage between the foster child, the wet nurse, and her husband [and offspring] is similar to the impermissibility due to blood relation.

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[192] The Shaykh said elsewhere, "The sound view is that merely letting the baby attach to a breast or transferring him to another breast is not fostering; rather, it should be a complete breastfeeding." See *al-Mukhtārat al-Jaliyyah*, pg. 111.

Shaykh Ibn 'Aqil related the following words of Ibn Qudāmah from *al-Kāfi* (5/64), "Ibn Ḥāmid said, 'If the infant is hindered from [breast]feeding due to a problem, or he has been removed and then made to resume the feeding, it will be considered a single feeding and not two. If the infant and the breastfeeding woman are separated and distanced from one another and the infant is transferred to another woman with whom he resumes the feeding, then it will be considered as two instances of breastfeeding. This is just like a person who is eating or drinking and pauses due to a hindrance and then resumes eating or feeding, it is counted as a single instance of a meal. The same is the case with breastfeeding.'"

-Chapter-
The Conditions Within a Marriage

Such conditions are those stipulated by either of the two spouses as being incumbent upon the other, and it is of two types:

1. Valid conditions, such as stipulating that the husband not marry another wife [while he is married to her], not take a concubine, not relocate her from her house or country, or that he increase the amount of dowry (*mahr*) or spending money, and other similar things. All such conditions are included under the Prophet's saying,

   إِنَّ أَحَقَّ الشُّرُوطِ أَنْ تُوفُوا بِهِ مَا اسْتَحْلَلْتُمْ بِهِ الْفُرُوجَ.

   "The conditions that deserve to be fulfilled the most are those that make the private parts lawful to you."[393]

2. Invalid conditions, which includes *mut'ah* (temporary) marriage[394], *tahlīl* marriage[395], and *shighār* marriage[396]. *Mut'ah* was initially permitted by the Prophet, however it was later made impermissible by him.[397] He also cursed the *muhallil*[398] and *muḥall al-lahū*[399]. Additionally, he forbade *shighār* marriage,[400] and all of the *ḥadīths* concerning it are authentic.

[393] Bukhārī, 9/417; Muslim, no. 1418.
[394] Marriage that is arranged for a pre-determined period of time and when the time is complete the couple automatically divorce. [TN]
[395] Marriage to an irrevocably divorced woman with the sole intention of making her permissible to her former husband. [TN]
[396] This occurs when two guardians agree to marry those who are under their custodianship to each other without any dowry. [TN]
[397] See Muslim, no. 1405.
[398] Refers to a man who marries an irrevocably divorced woman for the sole purpose of making her lawful for her ex-husband to remarry. [TN]
[399] Refers to the ex husband of the woman who was irrevocably divorced, seeking to remarry her through an unlawful marriage. [TN]
[400] Bukhārī, 9/162; Muslim, no. 1415.

-Chapter-
Defects in Marriage

If one of the spouses discovers that the other suffers from a defect that was unknown prior to contracting the marriage, such as mental insanity, leprosy, or something similar, then that spouse has the option to nullify the marriage. If the wife finds the husband to be impotent, then he should be given respite for a year, and if after that time his status has not changed, then she is given the right to void the marriage.

If a [slave] woman becomes completely emancipated and her husband remains a slave, then she is given the choice to either remain married to him or to separate from him.[401] The evidence behind this is the lengthy *ḥadīth* reported by 'Ā'ishah about the story of the emancipation of Barīrah, who was given the choice to remain with her husband or seperate from him after her emancipation. It is agreed upon by Bukhārī and Muslim.[402]

If the marriage is nullified prior to the consummation of the marriage, then no dowry is due [on the husband]. Otherwise, the dowry becomes due on him and he is to demand the repayment of it from the one who deceived him.

[401] The Shaykh said that the choice [to remain married or not to a slave man when a slave girl wins her freedom] does not expire unless she willingly foregoes her right to choice, or the slave man has sexual intercourse with her while she has knowledge of her right that it will expire with this act. See *al-Mukhtārāt al-Jalliyyah*, pg. 105.

[402] Bukhārī, 9/404; Muslim, no. 1504.

-Chapter-
Spousal Treatment[403]

Each spouse is obligated to live harmoniously with the other, through maintaining good company, refraining from causing any harm, and not hesitating in giving their due rights.

The wife is obligated to obey the husband in the following things:

1. Acts of intimacy.
2. Refrain from leaving his house or traveling, except with his permission.
3. Carrying out chores such as cooking, and other similar things.

The husband is required to spend on the wife's expenditures and clothing in a fair manner. This is based on Allah's saying,

﴿وَعَاشِرُوهُنَّ بِٱلْمَعْرُوفِ﴾

"Live with them honorably." (Q. 4:19)

It is also based on the following *ḥadīths*,

اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا.

"Treat the women good."[404]

خَيْرُكُمْ خَيْرُكُمْ لِأَهْلِهِ.

"The best of you is the one who is best to his family."[405]

إِذَا دَعَا الرَّجُلُ امْرَأَتَهُ إِلَى فِرَاشِهِ، فَأَبَتْ أَنْ تَجِيءَ، لَعَنَتْهَا الْمَلَائِكَةُ حَتَّى تُصْبِحَ.

"If a man calls his wife to his bed and she refuses to come, then the angels curse her until the morning."[406]

Additionally, a husband should be equitable in his dealings between his wives, such as the division of his time, spending on them, clothing them, and everything else in which he is able to maintain equity with

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[403] In the Arabic file this Chapter was located in the Bood of Dowary, but we felt it was better situated for this Chapter.

[404] Bukhārī, 9/253; Muslim, no. 1468.

[405] Al-Dārmī, 2/159; Tirmidhī, no. 3895; al-Ḥākim, 4/173.

[406] Bukhārī, 9/293; Muslim, no. 1436.

them. The Prophet said,

> مَنْ كَانَتْ لَهُ امْرَأَتَانِ فَمَالَ إِلَى إِحْدَاهُمَا، جَاءَ يَوْمَ الْقِيَامَةِ وَشِقُّهُ مَائِلٌ.
>
> "Whoever has two wives, but inclines towards one more than the other will come on the Day of Judgment leaning more to one side."[407]

It was also reported on the authority of Anas [b. Malik],

> مِنَ السُّنَّةِ إِذَا تَزَوَّجَ الرَّجُلُ الْبِكْرَ عَلَى الثَّيِّبِ أَقَامَ عِنْدَهَا سَبْعًا وَقَسَمَ، وَإِذَا تَزَوَّجَ الثَّيِّبَ عَلَى الْبِكْرِ أَقَامَ عِنْدَهَا ثَلَاثًا ثُمَّ قَسَمَ.
>
> "It is from the *Sunnah* that when a man marries a virgin while being married to a non-virgin, he should remain with the virgin for seven days, and afterwards divide the days equally [between them]. If he marries a women who is a non-virgin, then he stays with her for three days and then divides the days [between them]."[408]

'Ā'ishah said,

> كَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِذَا أَرَادَ سَفَرًا أَقْرَعَ بَيْنَ نِسَائِهِ، فَأَيَّتُهُنَّ خَرَجَ سَهْمُهَا خَرَجَ بِهَا مَعَهُ.
>
> "Whenever the Messenger of Allah intended to travel, he would draw lots among his wives, and the one whose lot was choosen would accompany him."[409]

However, if a woman waives her rights, [with the husband's permission,] for the division of time, expenditure, or clothing, then this is permissible. It is known that Sawdah bint Zam'ah gave her days to 'Ā'ishah, so the Prophet would divide up the days and give 'Ā'ishah her day and that of Sawdah's. This is agreed upon by Bukhārī and Muslim.[410]

If a husband fears marital discord (*nushuz*) from his wife, and her disobedience becomes apparent, then he should:[411]

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[407] Aḥmad, 2/347; Abū Dāwūd, no. 2133, ibn Mājah, no. 1969; al-Nisā'ī, 7/63, Tirmidhī, no. 1150; al-Bayhaqī, 7/297; al-Ḥākim, 2/186.

[408] Bukhārī, 9/314; Muslim, no. 1461.

[409] Bukhārī, 5/293; Muslim, no. 2770

[410] Bukhārī, 9/312; Muslim, no. 1463.

[411] A wife who disobeys her husband, revolts against him, and abandons his obligatory obedience, without any shortcoming from him, no longer enjoys the right to her prescribed time with him and provisions until she resumes being obedient to him. Such

a. Admonish her.
b. If she persists in her disobedience then he should abandon sharing the bed with her.
c. If she still persists [in her disobedience] then he should lightly hit her, without causing her any harm.

However, if the husband does not not give the wife her maritial rights, then he is prevented from doing the above things.

If separation is feared between the spouses, then an arbitrator should be chosen from his family and one from her family. They should have knowledge of the situtation and [the ability to determine] whether reconciliation or separation is best. They should try to make reconciliation between them if that is acceptable to both parties, with some form of compensation or not, or they should separate them. So whatever decision the arbitrators decide, it becomes binding on the parties, and Allah knows best.

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a wife should be brought to the right course by her husband through wise counseling. See *Nūr al-Baṣā'ir*, pg. 51.

Book of Dowry (*Kitāb al-Ṣaḍāq*)

Ṣaḍāq should be an amount that can be easily acquired.

سَأَلْتُ عَائِشَةَ: كَمْ كَانَ صَدَاقُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَتْ: «كَانَ صَدَاقُهُ لِأَزْوَاجِهِ ثِنْتَيْ عَشْرَةَ أُوقِيَّةً وَنَشًّا»، قَالَتْ: «أَتَدْرِي مَا النَّشُّ؟» قَالَ: قُلْتُ: لَا، قَالَتْ: «نِصْفُ أُوقِيَّةٍ، فَتِلْكَ خَمْسُمِائَةِ دِرْهَمٍ»

'Ā'ishah was asked, "How much was the dowry which the Prophet gave?" She said, "The dowry was twelve ounces [of gold] and one *nash*. Do you know what a *nash* is?" I[412] said, "No." She said,"It is half of an ounce. So the [total amounted] to five hundred *dirham*."[413]

She also said,

أَعْتَقَ صَفِيَّةَ، وَجَعَلَ عِتْقَهَا صَدَاقَهَا.

"He freed Safiyyah and made that her dowry."[414]

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[412] Referring to Abū Salamah, the questioner. [TN]

[413] Muslim, no. 1426. The Shaykh said that a person should try to set a lesser amount for the *mahr* if the wife and her *walī* agree to it. Otherwise the man should give to the wife the amount of *mahr* that is conventionally given to a woman of her stature in the town of her residence. See *Nūr al-Baṣā'ir*, pg. 48.

[414] Bukhārī, 9/132; Muslim, no. 1365.

The Prophet also said to a man,

الْتَمِسْ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ.

"Seek out something [to give], even if it is a metal ring."[415]

Therefore, anything which is valid and has a value or is used as payment, even if it is a small amount, is valid as dowry.

If a man was to marry a woman without stipulating the amount of her dowry, then it is the same as other woman who are similar to her. If a man divorces a woman prior to the consummation of the marriage, then she receives alimony [based on the status of her husband]; so the rich according to his means and the poor according to his. The evidence for this is the saying of Allah,

﴿ لَا جُنَاحَ عَلَيْكُمْ إِن طَلَّقْتُمُ النِّسَاءَ مَا لَمْ تَمَسُّوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً ۚ وَمَتِّعُوهُنَّ عَلَى الْمُوسِعِ قَدَرُهُ وَعَلَى الْمُقْتِرِ قَدَرُهُ مَتَاعًا بِالْمَعْرُوفِ ۖ حَقًّا عَلَى الْمُحْسِنِينَ ﴾

"There is no sin on you if you divorce women with whom you have not consummated, nor appointed for them their [dowry] amount, but make provisions for them, the rich according to his means and the poor according to his means, a gift of reasonable amount; this is a duty on the good-doers." (Q. 2:236)

The complete dowry is paid to the wife upon the death of the husband or upon consummation of the marriage. If separation occurs, at the request of the husband, prior to consummation, then half of the dowry is due. However, the dowry is not due in the following scenarios:

1. The separation is due to the request of the wife.
2. Annulment of the marriage by the husband due to a discoverd defect in the wife.

The one who divorces his wife should provide her with some maintenance as a mean of consolation. This is due to Allah's statement,

﴿ وَلِلْمُطَلَّقَاتِ مَتَاعٌ بِالْمَعْرُوفِ ۖ حَقًّا عَلَى الْمُتَّقِينَ ﴾

"Divorced women shall have maintenance according to what is fair. This is a duty on those who are conscious of Allah." (Q. 2:241)

[415] Bukhārī, 9/131 & 205; Muslim, no. 1425.

Book of Divorce
(*Kitāb al-Talāq*)

The proof for its permissibility is Allah's statement,

﴿يَٰٓأَيُّهَا ٱلنَّبِيُّ إِذَا طَلَّقْتُمُ ٱلنِّسَآءَ فَطَلِّقُوهُنَّ لِعِدَّتِهِنَّ وَأَحْصُوا۟ ٱلْعِدَّةَ﴾

"Prophet, when you divorce women, divorce them during their prescribed periods, and count accurately their '*iddah*." (Q, 65:1)

There are other similar texts from the Qur'an and the Sunnah that relate this. The phrase, "Divorce them during their prescribed periods," is illustrated in the *ḥadīth* of ibn 'Umar in which he divorced his wife during her menses. The Messenger of Allah was asked concerning this, and he said,

مُرْهُ فَلْيُراجِعْهَا، ثُمَّ لِيَتْرُكْهَا حَتَّى تَطْهُرَ، ثُمَّ تَحِيضَ، ثُمَّ تَطْهُرَ، ثُمَّ إِنْ شَاءَ أَمْسَكَ بَعْدُ، وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمَسَّ، فَتِلْكَ الْعِدَّةُ الَّتِي أَمَرَ اللهُ عَزَّ وَجَلَّ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ.

"Command him to take her back, and leave her alone until she enters her second menses, and then again becomes pure. Then, if he wishes, he can stay with her and if he wishes he can divorce her before having sexual intercourse with her. That is the prescribed

period that Allah has commanded for divorcing women."[416]

In another narration it says,

مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ لِيُطَلِّقْهَا طَاهِرًا، أَوْ حَامِلًا.

"Command him to take her back, and then divorce her after she is pure [from menstruation] or pregnancy."[417]

This is proof for the impermissibility of divorcing a woman during her menstruation or during a period of purity in which the husband has had sexual relations with her, unless it is ascertained that she is pregnant.

Divorce takes effect with the use of any words that indicate it, such as:

a. Explicit pronouncement, which denotes nothing other than divorce, such as the utterance of the word divorce (*talāq*), its derivatives, or anything similar to it.
b. Implicit pronouncement, when accompanied by the intent to divorce, or an indication to it.[418]

Divorce is effected:

a. Immediately, or
b. pending a stipulated condition, such as the husband saying, "If such and such time comes, then you are divorced," or when he stipulates a condition for the divorce, and if the condition is met then divorce takes place.

Revocable and Irrevocable Divorce

A free man possesses the right to pronounce divorce three times,[419]

[416] Bukhārī, 9/345; Muslim, no. 1471.

[417] Muslim, no. 1471.

[418] A man who is doubtful as to whether he issued a *talaq* or how many *talāqs* he issued is not bound to consider the doubt and instead follows that which is clear. See *Nūr al-Baṣā'ir*, pg. 52.

[419] The Shaykh said elsewhere, "Shaykh ibn Taymiyyah preferred the view that *ṭalaq* uttered/issued through different expressions refers to only one *ṭalāq*. This remains true even if the husband clearly uses the word "Three or thrice," or, "indeed," or any other expressions that are used for stress. The second *ṭalāq* is not applicable except after [issuing the first one] and then revoking it properly. Ibn Taymiyyah supported

after which his wife becomes impermissible for him until she marries another person through a valid marriage, and that person has sexual intercourse with her [and then divorces her]. This is due to Allah's statement,

﴿ ٱلطَّلَٰقُ مَرَّتَانِۖ فَإِمۡسَاكُۢ بِمَعۡرُوفٍ أَوۡ تَسۡرِيحُۢ بِإِحۡسَٰنٖۗ وَلَا يَحِلُّ لَكُمۡ أَن تَأۡخُذُواْ مِمَّآ ءَاتَيۡتُمُوهُنَّ شَيۡـًٔا إِلَّآ أَن يَخَافَآ أَلَّا يُقِيمَا حُدُودَ ٱللَّهِۖ فَإِنۡ خِفۡتُمۡ أَلَّا يُقِيمَا حُدُودَ ٱللَّهِ فَلَا جُنَاحَ عَلَيۡهِمَا فِيمَا ٱفۡتَدَتۡ بِهِۦۗ تِلۡكَ حُدُودُ ٱللَّهِ فَلَا تَعۡتَدُوهَاۚ وَمَن يَتَعَدَّ حُدُودَ ٱللَّهِ فَأُوْلَٰٓئِكَ هُمُ ٱلظَّٰلِمُونَ ٢٢٩ فَإِن طَلَّقَهَا فَلَا تَحِلُّ لَهُۥ مِنۢ بَعۡدُ حَتَّىٰ تَنكِحَ زَوۡجًا غَيۡرَهُۥۗ فَإِن طَلَّقَهَا فَلَا جُنَاحَ عَلَيۡهِمَآ أَن يَتَرَاجَعَآ إِن ظَنَّآ أَن يُقِيمَا حُدُودَ ٱللَّهِۗ وَتِلۡكَ حُدُودُ ٱللَّهِ يُبَيِّنُهَا لِقَوۡمٖ يَعۡلَمُونَ ٢٣٠ ﴾

"Divorce may be [revoked] twice, then either retain her in an acceptable manner or release her with kindness. It is unlawful for you to take back from them anything that you have given them [as dowry], except where both fear that they may not be able to maintain the limits ordained by Allah.[420] If you fear that they would not be able to maintain the limits ordained by Allah, then there is no sin on either of them if she gives back [her dowry] for her release. These are the limits set by Allah, so do not transgress them. Those who transgress the limits set by Allah are the wrongdoers. If he divorces her [for the third time], she is no longer lawful for him until she marries another husband. If the latter divorces her, there is no sin on both of them if they reunite, provided they feel that they can keep [within] the limits set by Allah. These are the limits of Allah, which He makes clear for people who have knowledge. Divorce is twice and if he has divorced her [the third time], then she is not lawful to him afterwards until she has married another husband." (Q, 2:229-230)

Divorce becomes irrevocable in four cases:

1. The case mentioned above.[421]

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this view from a number of perspectives, and anyone exposed to his arguments on this issue cannot go against this view Similarly, he has chosen the view that the vow to divorce one's wife is like all other oaths requiring expiation. This view is to be adopted in my opinion. Similarly he has established that divorce issued by an inebriated person is not applicable. This is the case with all other agreements that he makes, and his confession is not considered." See *al-Mukhtārāt al-Jaliyyah*, pg. 108.

[420] Meaning, they are unable to deal with each other in an equitable manner [TN]

[421] Where he has divorced her for the third time. [TN]

2. If the husband divorces his wife prior to consummation of the marriage. This is based on Allah's saying,

   ﴿يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا نَكَحۡتُمُ ٱلۡمُؤۡمِنَٰتِ ثُمَّ طَلَّقۡتُمُوهُنَّ مِن قَبۡلِ أَن تَمَسُّوهُنَّ فَمَا لَكُمۡ عَلَيۡهِنَّ مِنۡ عِدَّةٖ تَعۡتَدُّونَهَاۖ﴾

   "You who believe, if you marry believing women and then divorce them without having sexual intercourse with them, then there will be no waiting period with respect to them." (33:49)

3. If the marriage is invalid.
4. If it was done in exchange for compensation.[422]

As for any other case, then divorce is revocable, meaning, the husband has the right to take back his wife as long as she is still observing her waiting period. This is due to Allah's statement,

﴿وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَٰلِكَ إِنۡ أَرَادُوٓاْ إِصۡلَٰحٗاۚ﴾

"Their husbands are more entitled to take them back in this [period], if they desire reconciliation." (Q. 2:228)

The ruling of a woman who is taken back [by her husband] in a revocable divorce is the same as other wives, except in the equal divison of the husband's time.

It is legally reguired for a person to declare the marriage, divorce, retraction of a divorce (*ruj'ah*)[423] and to have witnesses for them. This is due to Allah's statement,

﴿وَأَشۡهِدُواْ ذَوَيۡ عَدۡلٖ مِّنكُمۡ﴾

"Take as witness two just persons from among yourself." (Q. 65:2)

As well as the *ḥadīth*,

ثَلاثٌ جِدُّهُنَّ جِدٌّ، وَهَزْلُهُنَّ جِدٌّ: النِّكَاحُ، وَالطَّلَاقُ، وَالرَّجْعَةُ.

[422] Meaning, they are unable to deal with each other on an equitable basis. [TN]

[423] The Shaykh has clarified that separation (*firāq*) turns into a *bā'in firāq* (irrevocable divorce) in six cases. He mentions these four and adds, when the husband dies, or when the marriage is cancelled from his side due to a compelling factor. See *Nūr al-Baṣā'ir*, pg. 55.

"Three things when said seriously are taken as serious and when said in jest are taken as serious: marriage, divorce, and reconciliation [of a divorce]."[424]

It is also reported from ibn 'Abbās that the Prophet said,

إِنَّ اللهَ وَضَعَ عَنْ أُمَّتِي الْخَطَأَ، وَالنِّسْيَانَ، وَمَا اسْتُكْرِهُوا عَلَيْهِ.

"Allah has forgiven my community for their [unintentional] mistakes, forgetfulness, and what they commit under compulsion."[425]

[424] The Shaykh concluded elsewhere that the revocation of divorce is not obtained by mere resumption of sexual intercourse with the divorced wife. The husband has to have a clear intention of revocation to accompany such steps. See *al-Mukhtārāt al-Jaliyyah*, pg. 109.

[425] Abū Dāwūd, no. 2194; Tirmidhī, no. 1184, who called it *ḥasan garīb*; ibn Mājah, no. 2039; al-Dāraquṭnī, no. 50; al-Ḥākim, 2/197, who called it *ṣaḥīḥ*.

-Chapter-
Īlā', Ẓihār, & Li'ān

[*Iilā'*]

Iilā' is when a husband swears an oath[426] to not have sexual relations with his wife for an indefinite period of time or a time that exceeds four months. If during this time the wife requests her right to have sexual relations with her husband, then he is commanded to fulfill it and a period of four months is set for him. If he has sexual relations with his wife during this period, then he is requried to offer an expiation for breaching his oath. If he refuses to do so, then he is made to divorce her. This is due to Allah's statement,

﴿ لِّلَّذِينَ يُؤْلُونَ مِن نِّسَآئِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِن فَآءُو فَإِنَّ ٱللَّهَ غَفُورٌ رَّحِيمٌ ﴿٢٢٦﴾ وَإِنْ عَزَمُوا۟ ٱلطَّلَٰقَ فَإِنَّ ٱللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٢٧﴾ ﴾

> "Those who take an oath to abstain from their wives[427] must wait four months, but if they go back,[428] then Allah is Most Forgiving, Most Merciful. However, if they decide on divorce, then Allah is All Hearing, All Knowing." (Q, 2:226-227)

[*Ẓihār*]

Ẓihār is when a husband says to his wife, "You are [as forbidden to me] like the back of my mother," or any similar words that denote an explicit forbiddance of his wife for him. Such utterance is a rejected act and a false statement. Although the wife does not become forbidden for him through an utterance, but it is not permissible for him to have sexual intercourse with her until he does that which Allah commands in His statement,

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[426] Ibn Mājah, no. 2045; al-Dāraquṭnī, no. 497; al-Ḥākim, 2/198, who called it *ṣaḥīḥ* based on the conditions of Bukhārī and Muslim.

[427] The Shaykh declared the following view as sound. *Īlā'* (a vow not to have sexual relationship) is affected through an oath by the Almighty, divorce, freedom, and other acts known as an undertaking. This is because the expression in the following verse is general in nature, "For those who who declare *īlā'* with their wives." See *al-Mukhtārat al-Jaliyyah*, p. 109.

[428] Meaning, do not have sexual relations with them. [TN]

﴿ وَالَّذِينَ يُظَاهِرُونَ مِن نِّسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا فَتَحْرِيرُ رَقَبَةٍ مِّن قَبْلِ أَن يَتَمَاسَّا ۚ ذَٰلِكُمْ تُوعَظُونَ بِهِ ۚ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ ﴿٣﴾ فَمَن لَّمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ مِن قَبْلِ أَن يَتَمَاسَّا ۖ فَمَن لَّمْ يَسْتَطِعْ فَإِطْعَامُ سِتِّينَ مِسْكِينًا ۚ ذَٰلِكَ لِتُؤْمِنُوا بِاللَّهِ وَرَسُولِهِ ۚ وَتِلْكَ حُدُودُ اللَّهِ ۗ وَلِلْكَافِرِينَ عَذَابٌ أَلِيمٌ ﴿٤﴾ ﴾

"Those who make their wives unlawful for themselves through *ẓihār* and wishes to free themselves from what they uttered, [the penalty] is the freeing of a slave before they touch each other. That is what you are admonished to do. Allah is All Aware of what you do. He who does not find [the means to do that] must fast two consecutive months before they touch each other. If he is unable [to fast], then he should feed sixty poor people. That is so that you may believe in Allah and His Messenger. Theses are the limits set by Allah, and for the disbelievers there is a painful torment." (Q, 58: 3-4)

Therefore, the husband is required to emancipate a believing slave who is free of any defect that would hinder him from carrying out his work. However, if he cannot afford this, then he must fast for two consecutive months. If he is unable to do even this, then he must feed sixty poor people. All this applies whether *ẓihār* was absolute [in which no time period was mentioned] or for a fixed time period, such as the month of Ramaḍān or anything similiar.

In regards to making, through the utternace of a statement, one's female slave forbidden, or declaring some permissible food or clothing as forbidden, and other similar things upon oneself, it entails offering an expiation for breaching an oath.[429] This is due to Allah's statement,

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا ۚ إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ ﴿٨٧﴾ وَكُلُوا مِمَّا رَزَقَكُمُ اللَّهُ حَلَالًا طَيِّبًا ۚ وَاتَّقُوا اللَّهَ الَّذِي أَنتُم بِهِ مُؤْمِنُونَ ﴿٨٨﴾ لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَٰكِن يُؤَاخِذُكُم بِمَا عَقَّدتُّمُ الْأَيْمَانَ ۖ فَكَفَّارَتُهُ إِطْعَامُ عَشَرَةِ مَسَاكِينَ مِنْ أَوْسَطِ مَا تُطْعِمُونَ أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ أَوْ تَحْرِيرُ رَقَبَةٍ ۖ فَمَن لَّمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ ۚ ذَٰلِكَ كَفَّارَةُ أَيْمَانِكُمْ إِذَا حَلَفْتُمْ ۚ وَاحْفَظُوا أَيْمَانَكُمْ ۚ كَذَٰلِكَ يُبَيِّنُ اللَّهُ لَكُمْ آيَاتِهِ لَعَلَّكُمْ تَشْكُرُونَ ﴿٨٩﴾ ﴾

Believers, do not make forbidden the good things that Allah has

[429]Meaning, they change their mind and return to their wives within this period. [TN]

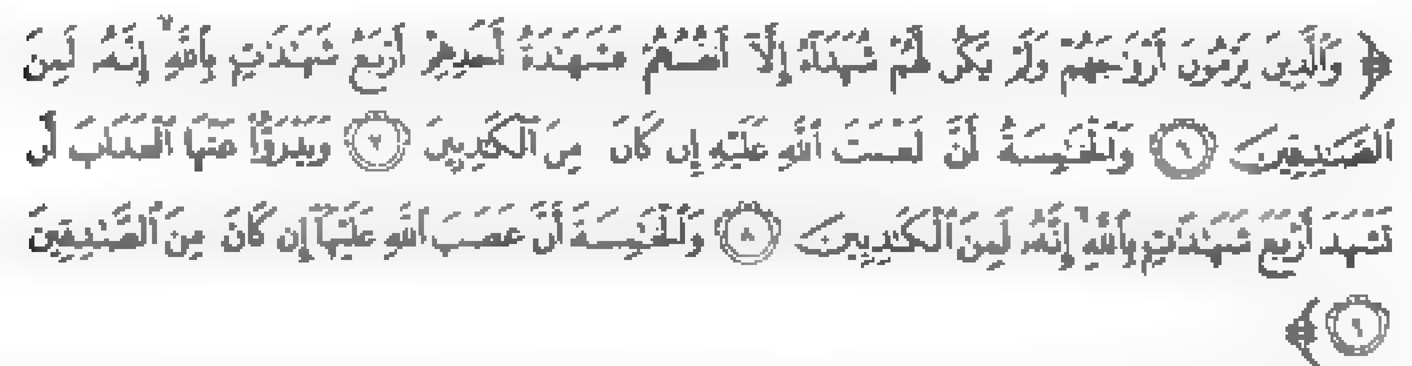
made lawful to you. Do not transgress, [for] Allah does not love the transgressors. Eat what Allah has provided for you of the lawful and good things, and fear Allah in Whom you believe. Allah will not take you [to task] for what is thoughtless in your oaths, but He will take you to task for your oaths that you have sworn in earnest. The expiation [of an oath is to] feed ten poor people with food equivalent to what you would normally feed your own families, or to clothe them, or to set free a slave. Whoever cannot afford [that], should fast for three days. That is the expiation for the oaths that you have sworn, [so] protect your oaths. Thus, Allah makes clear to you His revelations so that you may be grateful. (Q. 5:87-89)

[*Li'ān*]

Li'ān refres to the husband accusing his wife of adultery. Therefore, the crime of defamation is charged against him and he is subjected to eighty lashes unless he does either of the following:

1. Establishes the proof for it through the testimony of four just witnesses, in which case the legal punishment (*ḥadd*) will be carried out on the wife.
2. He invokes Allah's curse upon the one who is lying (*mulā'anah*). This will remove the legal punishment of defamation from being applied on him.

The method for *li'ān* has been described by Allah in *Sūrah an-Nur*, where He says,



"Those who accuse their wives and have no witnesses but themselves, let the testimony of one of them be to swear by Allah four times that he is one of the truthful, and the fifth that the curse of Allah is on him if he is one of those who lie. However, it will avert punishment from her that she bear witness four times

by Allah that he is one of the liars, and the fifth that tht wrath of Allah be upon her if he is one of the trutful." (Q. 24:6-9)

Therefore, *li'ān* is observed in the following way:

a. The husband testifies five times, swearing by Allah, that she is an adulteress. In the fifth testimony he says, "May the curse of Allah be upon me if I am speaking a lie."
b. The wife then testifies five times, swearing by Allah, that he is a liar. In the fifth testimony she says, "May the warth of Allah be upon me if he is speaking the truth."

After the completion of this [the following occurs]:

a. The legal punishment for the husband is dropped.
b. The legal punishment for the wife is voided.
c. Both spouses are separated, and they are permanentaly forbidden for each other.
d. The child is not attributed to the husband, if he was mentioned as part of the *li'ān*,[430] and Allah knows best.

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[430] The Shaykh has said that a child is attributed to the legal father except in two cases:
1. If the husband opts for *li'ān*, and
2. If there is no chance for the husband to have approached the woman and lived with her for at least nine months after the marriage, or he could not have possibly been with her because they were living separate for a long time.

Under these cases it is know that the child cannot be his. See *Nūr al-Baṣā'ir*, pg. 54.

-Chapter-
Khul'[431]

Khul' refers to a separation initiated by the wife in exchange for some type of compensation paid by her or a third party. The ruling for this is based on Allah's words,

﴿فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ﴾

> "If you fear that they would not be able to maintain the limits ordained by Allah, then there is no sin on either of them if she gives back [her dowry] for her release." (Q. 2:229)

Thus, if the wife dislikes something about her husband, such as his mannerism or his physical characteristic, and fears that she will not be able to maintain the limits ordained by Allah if she stays with him, then there is no harm if she offers him compensation in exchange for him divorcing her.[432] It is valid whether it is a small or large amount [of compensation] as long as the divorce is issued by the one whose pronouncement of it is legally valid. However, if *khul'* is sought for a reason other than her fearing that she will not be able to maintain the limits ordained Allah, then its consequences have been mentioned in the following *ḥadīth*,

أَيُّمَا امْرَأَةٍ سَأَلَتْ زَوْجَهَا الطَّلَاقَ مِنْ غَيْرِ بَأْسٍ فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ

> "Any woman who asks her husband for a divorce without a good reason, then the smell of Paradise is forbidden for her."[433]

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[431] This Chapter in the origianl Arabic was under the Book of Dowry, but has been moved to this Book as it pertains to this discussion.

[432] *Khul'* is not counted as a *ṭalāq* even if the word *ṭalaq* is used and the intention of it is involved in this form of separation. The Shaykh has confirmed this view as authentic in *al-Mukhtārāt al Jaliyyah*, (pg. 108). He said that if the ruling authority cancels a marriage due to some valid point, such as the delinquency of the husband in regards to provisions and sexual relations, then the annulment is complete. It is not divided according to the number of *ṭalāqs*, and the wife becomes *ba'in* (irrevocably separated), and it is similar to a triple *ṭalāq*. However, the man is permitted to take the woman back in marriage with her consent through a new marriage contract in presence of witnesses and with the approval of her *walī*. This can even be done during her *iddah* period. See *Nur al-Baṣā'ir*, pg. 51.

[433] Aḥmad, 5/277; al-Dārmī, 2/162; Abū Dāwūd, no. 2226; Tirmidhī, no. 1187, who called it *ḥasan*; ibn Mājah, no. 2055; al-Ḥākim, 2/200, who said that it is *ṣaḥīḥ* according to the conditions of Būkharī and Muslim.

Book of the Waiting Period (*Kitāb al-'Iddah wa al-Istibrā'*)

[*'Iddah*]

The *'iddah* is the waiting period observed by the woman[434] whose husband has left her through divorce or death. Concerning the separation due to death, then it entails that when the husband dies, the wife observes the *'iddah* no matter what. [Therefore:]

a. If she is pregnant, then her *'iddah* is until she delivers the child. This is due to Allah's statement,

﴿وَأُوْلَٰتُ ٱلۡأَحۡمَالِ أَجَلُهُنَّ أَن يَضَعۡنَ حَمۡلَهُنَّۚ﴾

> "Those who are pregnant, their *'iddah* is until they deliver." (Q. 65:4)

This is general for the case of separation, whether it is from death or during life [through divorce].

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[434] The Shaykh clarified elsewhere that a woman with whom sex has occurred due to confusion [confusing her with one's legal spouse or slave girl], then is not obliged to observe the usual *iddah* for married women. Instead, she waits for a single menstrual cycle to ascertain that she is not pregnant. See *al-Mukhtārāt al-Jaliyyah*, pg. 110.

b. If she is not pregnant then her *'iddah* is four months and ten days.

A woman observing *'iddah* [due to her husband's death] must observe mourning through the following:

a. Avoid adorning herself by using perfume, jewelry, or embellishing herself by coloring her hair with henna, and anything that is similar.
b. Remains in the house where she was living with her husband when he died, only leaving the house during the day for necessity. This is due to Allah's statement,

﴿وَالَّذِينَ يُتَوَفَّوْنَ مِنكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا﴾

"Those of you who die and leave behind wives, they [the wives] shall wait four months and ten days [before remarrying]." (Q, 2:234)

As for separation that occurs while the husband is alive, [then the following applies]:

1. If the husband divorces the wife prior to consummation, then there is no *'iddah* for her. This is evident from the words of Allah,

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَّقْتُمُوهُنَّ مِن قَبْلِ أَن تَمَسُّوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُّونَهَا﴾

"You who believe, if you marry believing women and then divorce them without having sexual intercourse with them, then there will be no waiting period with respect to them." (Q, 33:49)

2. If he consummated the marriage with her or he was alone with her, then the following will apply:

   a. If she is pregnant, then her *'iddah* continues until she delivers the child, irrespective of whether the duration is short or long.
   b. If she is not pregnant, then this needs further elaboration:

i. If she has menstrual periods, then her *'iddah* is the completion of three full menstrual cycles. This is due to Allah's statement,

﴿ وَٱلْمُطَلَّقَٰتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَٰثَةَ قُرُوٓءٍ ﴾

"Divorced women should wait three [menstrual] periods." (Q. 2:228)

ii. If she does not have any menstrual periods—such as a young girl, the one who does not menstruate, and the one experiencing menopause—then her period is three months. This is due to Allah's statement,

﴿ وَٱلَّٰٓـِٔى يَئِسْنَ مِنَ ٱلْمَحِيضِ مِن نِّسَآئِكُمْ إِنِ ٱرْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَٰثَةُ أَشْهُرٍ وَٱلَّٰٓـِٔى لَمْ يَحِضْنَ ﴾

"Those who have passed the age of menstruation, and you are in doubt [about their periods], then their *'iddah* is three months, as well as for those who have not received their menstruations." (Q. 65:4)

iii. If she has menstrual periods but they have stopped because of breastfeeding, or anything similar, then she waits for her menses to continue as normal and then she begins her *'iddah* from there.[435]

iv. If her menstrual periods have stopped and she does not know the cause of it, then she waits nine months as a precaution that she might be pregnant, and then begins her three months of *'iddah*.

v. If after the completion of her *'iddah* she has doubts regarding the signs of pregnancy, then she does not marry until her doubts are dispelled.

Concerning the husband who is missing, the wife should wait until

[435] The Shaykh said elsewhere that under the scenario where there is the probability of the husband's return, the woman should observe a waiting period of a year, nine months for pregnancy and three for her *iddah* The view that says that a woman should wait for him until she enters menopause entails a great injury to the woman, and the *shari'ah* does not allow this type of infliction on the believers. See *al-Mukhtārāt al-Jaliyyah*, pg. 110.

he has been declared dead by the ruler [or someone appointed by him], and then she begins her *'iddah*.

As for alimony, it is only given in the following cases:

1. For a woman who is observing *'iddah* after a revocable divorce.
2. For a woman whose husband is alive and separates from her while she is pregnant. This is due to Allah's words,

   ﴿وَإِن كُنَّ أُولَٰتِ حَمْلٍ فَأَنفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ﴾

   "If they are pregnant, then spend on them until they deliver." (Q, 65:6)

[*Istibrā'*]

Istibrā' refers to the waiting period of a female slave whose master has had sexual relations with her. [If she marries or is sold], her husband or new master should not have sexual relations with her, except under the following cases:

a. After the completion of one menstrual cycle.
b. If she does not have any menstrual cycles, then she should ascertain that she is not pregnant by waiting one month.
c. If she is pregnant, then after delivery of the infant.

[Book of Spending][436]

-Chapter-
Spendings on Spouses, Relatives, Servants, and Those in One's Custody

A man is required to provide financial support for his wife and cover the expenditures for her clothing and housing[437] according to his ability. This is due to Allah's statement,

﴿ لِيُنفِقْ ذُو سَعَةٍ مِّن سَعَتِهِۦ ۖ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُۥ فَلْيُنفِقْ مِمَّآ ءَاتَىٰهُ ٱللَّهُ ۚ لَا يُكَلِّفُ ٱللَّهُ نَفْسًا إِلَّا مَآ ءَاتَىٰهَا ﴾

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[436] This was not an individual Book in the original Arabic version, but was a chapter under the Book of the Waiting Period. It has been made into its own Book as the subject matter does not pertain to waiting period. [TN]

[437] The Shaykh has established that the sound opinion is that the husband's obligation to provide for his wife remains unless she commits *nushuz* (revolt). As for the case of her imprisonment, her journey to discharge an obligation, or another allowable journey embarked by her with the permission of her husband, then they do not abrogate his obligation. The Shaykh said, "We do not accept that the *illah* (reason) for the husband's obligation to provide for his wife is based on being able to be alone with her." Additionally, he declared sound the view that the wife has the right to get the marriage contact annulled due to the poverty of the husband. See *al-Mukhtārāt al-Jalliyyah*, pg. 112.

"Let the rich spend according to their means; those whose resources are limited, let them spend according to what Allah has given them. Allah does not burden a person beyond what He has given him. After hardship, Allah will grant ease." (Q, 65:7)

A husband is obligated to provide the mandatory things, if the wife requests it [from him]. It is related in the *ḥadīth* from Jābir, which is recorded by Muslim,

وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ.

"It is due on you to provide for and clothe them [your wives] in a fair manner."[438]

In this regards, a man is obligated to provide for the following:

a. His poor parents, grandparents, and offspring, if he is rich.
b. Those who would inherit from him, whether they are from the legal heirs or the residual heirs.[439]

Additionally, it it related in a Prophetic ḥadīth,

لِلْمَمْلُوكِ طَعَامُهُ وَكِسْوَتُهُ ، وَلَا يُكَلَّفُ مِنَ الْعَمَلِ إِلَّا مَا يُطِيقُ.

"Due upon a servant is his food and clothing, and not to be burdened with labor except that which he is able to perform."[440]

If the slave requests to get married, then his master is bound to get him married. Additionally, a person is also obligated to provide his animals with food and drink, and to not burden them with labor that will cause them harm. It is reported that the Prophet said,

كَفَى بِالْمَرْءِ إِثْمًا أَنْ يَحْبِسَ ، عَمَّنْ يَمْلِكُ قُوتَهُ.

"It is enough of a sin for a man to withhold the sustenance from the one who is under his care."[441]

[438] Muslim, no. 1218.
[439] The obligation to bring up and look after the relatives other than the ascendants (father, grandfather, etc.) and the descendants (children, grandchildren, etc.) is conditional. It becomes an obligation on the guardian to provide for them if he is an heir to the beneficiary. See *Nūr al-Baṣā'ir*, pg. 54.
[440] Muslim, no. 1662.
[441] Muslim, no. 996.

Concerning custody, it refers to protecting the child against that which will cause him harm and doing that which will be of benefit to him. The obligation for this falls upon the person who is obligated to provide support for the child. However, the mother has more right to her child, whether a son or a daughter, if the child is less than seven years old. When the child reaches seven years of age, then the following occurs:

a. If the child is a boy, then he is given a choice to choose which parent he wishes to stay with, and he will remain with that parent.
b. If the child is a girl, then she remains with whomever can provide her with the best benefit, whether it is her mother or her father.

The custody of a child is not placed in the hands of an individual who is unable to care for the child or provide it with benefit.[442]

[442] The Shaykh said elsewhere, "I could not find a satisfying and definite argument governing the question of preferring some women over others in deciding guardianship of minors except that the interest of the minor has to be considered. Any party that offers more chances for the child's welfare deserves to be given the responsibility for his upbringing. Similarly, ibn al-Qayyim has preferred this in *al-Hudā* as sound. He said, 'All of following deserve guardianship: the slave, the impious, and those who are married, especially when her husband agrees. Their right as minor remains as there is no sound argument in the sources of the *sharī'ah* that can be pleaded to in order to prove that they may not be taken care of.'" See *al-Mukhtārāt al-Jaliyyah*, pg. 114

Book of Food & Drink
(*Kitāb al-Aṭʿamh*)

Food is of two types:

1. Non-meat, such as grains, fruits, and anything similar, are all permissible to eat except that which can cause harm, like poison and anything similar. Concerning drinks, then everything is permissible except for that which causes intoxication, in which case both a small or large amount would be forbidden. This is evident from the saying of the Prophet,

   كُلُّ مُسْكِرٍ حَرَامٌ، وَمَا أَسْكَرَ مِنْهُ الْفَرَقُ فَمِلْءُ الْكَفِّ مِنْهُ حَرَامٌ.

   > "Anything that intoxicates is forbidden, and whatever intoxicates in large amounts, then [even] a handful of it is impermissible."[443]

   If wine turns into vinegar, then it becomes pure and lawful [to drink].
2. Meat is of two types:

   a. That which resides in water, and it is all lawful whether it

[443] Aḥmad, 6/71; Abū Dāwūd, no. 3687; Tirmidhī, no. 1867, who called it *ḥasan*; al-Bayhaqī, 8/296.

is alive or dead. Allah says,

﴿أُحِلَّ لَكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ﴾

"Made permissible for you are the water-game (animals) and its food." (5:96)

b. That which resides on land, the default ruling is that they are all permissible except those that are stated as forbidden by the Law-Giver. They are the following:

   i. That which is mentioned in the narration of ibn 'Abbās,

   كُلُّ ذِي نَابٍ مِنَ السِّبَاعِ فَأَكْلُهُ حَرَامٌ.

   "All predatory animals with canines are forbidden to be eaten."[444]

   ii. The Prophet also prohibited eating all birds that possess talons. It is recorded by Muslim.[445]

   iii. The Prophet also prohibited eating the meat of domesticated donkeys. It is agreed upon.[446]

   iv. The Prophet also prohibited the killing of four types of animals: the ant, the bee, the hoopoe, and the shrike. It is narrated by Aḥmad and Abū Dāwūd.[447]

   v. All impure animals are forbidden such as insects and those similar to them.

   vi. The Prophet also prohibited the flesh and milk of all animals that eat impure things (*jalālah*),[448] until it is held and fed pure food for three [days].[449]

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[444] Muslim, no. 1933.

[445] Muslim, no. 1934

[446] Bukhārī, 1/332; Muslim, no. 1941.

[447] Aḥmad, 1/332, Abū Dāwūd, no 5267, ibn Mājah, no. 3224; al-Dārmī, 2/88. Ibn Daqīq al-'Īd said, "Abū Dāwūd recorded this tradition on the authority of reliable narrators."

[448] Abū Dawud, no. 3785 & 3787; al-Nisā'ī, 7/240; Tirmidhī, no. 1826, who called it *ṣaḥīḥ*. Ibn Daqiq al-'Īd declared it as *ṣaḥīḥ* as mentioned by ibn Ḥajar in *al-Talkhiṣ*. *Al-Jalālah* is an animal that loves impure things, and eats the *jallh* (fecal matter) of other animals.

[449] There is no difference of opinion among the jurists that the prohibition to eat the flesh of *jalālah* animal is removed if the animal is quarantined and fed pure fodder. However, they have differed over the duration for which the animal is to be quarantined The Shāfi'ies hold the view that she-camels are to be quarantined for forty days,

cows for thirty days, sheep for seven days, and chicken for three days. Two views have been attributed to Imam Aḥmad:

1. Every *jalālah* animal is to be quarantined for three days, whether it is a bird or an animal. The upholders of this view base their opinion on the practice of ibn 'Umar.
2. The sacrificial animal [primarily camels] and cows are quarantined for forty days. This duration has been ascribed to ibn 'Amr through a *mawqūf* (where the chain ends at a Companion) and *marfū'* (where the chain ends with the Prophet) form.

Book of Slaughtering and Hunting (*Kitāb al-Dhabḥ wa al-Ṣadh*)

All lawful animals only become permissible to eat after being slaughtered, except for fish and locusts. The conditions for [the validity of] slaughtering are:

1. The one doing the slaughtering be a Muslim or from the People of the Book.
2. The slaughter is done with a sharp instrument.
3. That it causes blood to gush out.
4. The trachea and esophagus are severed.
5. The name of Allah is mentioned.

These conditions also apply to game animals with the exception that it is permissible to kill them by means of any part of their body other than severing the trachea and esophagus. Similar to every game is every [permissible] animal that evades capture and is unable to be slaughtered.[450] It is related on the authority of Rāfi' b. Khadīj, in a *marfū'*

[450] The Shaykh has affirmed elsewhere that if an animal goes out of control and runs away, then it is governed by the rulings applicable to a prey. It is to be struck by an arrow or something of a similar nature. If the arrow inflicts it anywhere in the body which causes it to die before the believer gets to it, then it is pure and allowed to eat.

ḥadīth, that the Prophet said,

مَا أَنْهَرَ الدَّمَ وَذُكِرَ اسْمُ اللهِ عَلَيْهِ فَكُل ، لَيْسَ السِّنَّ وَالظُّفُرَ ، أَمَّا السِّنُّ فَعَظْمٌ ، وَأَمَّا الظُّفُرُ فَمُدَى الحَبَشَةِ.

"If blood gushes forth and the Name of Allah has been mentioned, then eat [of the slaughtered animal]. However, do not slaughter with a tooth or a nail; for the tooth is a bone, and the nail is the knife of the Ethiopians."[451]

The game hunted by a trained dog is permissible on the condition that the animal hunts when released and stops when called, and he does not eat from the game that he catches. The owner should mention the Name of Allah before releasing the animal. It is related on the authority of 'Adiy b. Ḥātim that the Prophet said,

إِذَا أَرْسَلْتَ كَلْبَكَ فَاذْكُرِ اسْمَ اللهِ، فَإِنْ أَمْسَكَ عَلَيْكَ، فَأَدْرَكْتَهُ حَيًّا فَاذْبَحْهُ، وَإِنْ أَدْرَكْتَهُ قَدْ قَتَلَهُ، وَلَمْ يَأْكُلْ مِنْهُ فَكُلْهُ، وَإِنْ وَجَدْتَ مَعَ كَلْبِكَ كَلْبًا غَيْرَهُ، وَقَدْ قَتَلَهُ فَلَا تَأْكُلْ ، فَإِنَّكَ لَا تَدْرِي أَيُّهُمَا قَتَلَهُ، وَإِنْ رَمَيْتَ سَهْمَكَ، فَاذْكُرِ اسْمَ اللهِ. فَإِنْ غَابَ عَنْكَ يَوْمًا، فَلَمْ تَجِدْ فِيهِ إِلَّا أَثَرَ سَهْمِكَ، فَكُلْ إِنْ شِئْتَ، وَإِنْ وَجَدْتَهُ غَرِيقًا فِي المَاءِ، فَلَا تَأْكُل.

"When you release your trained hound, then mention the Name of Allah before it. If you reach the game that he has captured, and find it still alive, then slaughter it. If it has died by the time you reach it, but he has not eaten from it, then eat from it. If you find another dog with your own dog and they catch a game and kill it, then do not eat from it because you do not know which of the two has killed it. If you shoot an arrow, then mention the Name of Allah, and if you find it [dead] a day later, and it bears no other mark except that inflicted by your arrow, then eat from it. However, if you find it dead in the water, then do not eat from it."[452]

It is related in another *ḥadīth* that the Prophet said,

If however the arrow strikes it and the believer gets to it while it is still alive, then it should be slaughtered as normal. See *Nūr al-Baṣā'ir*, pg. 58.

[451] Bukhārī, 5/131; Muslim, no. 1968.

[452] Bukhārī, 1/279; Muslim, no. 1929.

> إِنَّ اللهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ، فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا الْقِتْلَةَ، وَإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذَّبْحَ، وَلْيُحِدَّ أَحَدُكُمْ شَفْرَتَهُ، فَلْيُرِحْ ذَبِيحَتَهُ.
>
> "Allah has enjoined doing good (*iḥsan*) in everything. So when you kill, then kill in a good way, and when you slaughter, then slaughter in a good way. Everyone of you should sharpen his knife, and let the slaughter animal die with comfort."[453]

The Prophet also said,

> ذَكَاةُ الْجَنِينِ ذَكَاةُ أُمِّهِ
>
> "The slaughter of an [animal's] fetus is achieved by the slaughter of its mother."[454]

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[453] Muslim, no. 1955

[454] Aḥmad, 3/31 & 53, Abū Dāwūd, no. 2826 & 2827; Tirmidhī, no. 1476, who called it *ṣaḥīḥ*; al-Dārmi, 2/84; al-Dāraquṭnī, no. 540; al-Ḥākim, 4/114, who said that it is *ṣaḥīḥ* according to the conditions of Muslim; al-Bayhaqī, 9/334.

Book of Oaths and Vows[455]
(*Kitāb al-Yamin wa al-Nadhr*)

[Oaths]

An oath is valid only when it is taken in any one of Allah's Names or Attributes. Swearing by other than Allah is an act of *shirk* (polytheism), and renders the oath invalid. The oath should necessitate an expiation [if breached], and it must be taken for a future matter. If the oath is taken for something in the past, while knowing that he is lying about it, then that is considered as *yamīn ghamūs* (false swearing).[456] However, if he believes that he is telling the truth, then it is considered as an unintentional oath. For example, if a person was to use the phrases, "No, by Allah," and, "Indeed by Allah," while speaking. Additionally, if a person breaks his oath, by doing that which he swore not to do or neglecting what he swore to do, then expiation is obligatory upon him.

[455] The Shaykh said that *furūq* includes the difference between an oath (*yamīn*) and a vow (*nadhr*). An oath is intended to encourage, forbid, confirm, or belie, and can be broken by offering an expiation. A *nadhr* is to vow to do an act of obedience toward Allah [such as a worship ritual] either without a related blessing or expecting a blessing or removal of an infliction. Its fulfillment is sought and so it cannot be discarded by offering an expiation. This kind of vow is one for the obedience of Allah. As for the other forms of *nadhr*, they are governed by the rulings applicable to the oaths. See *al-Qawā'id wa al-Furūq* pg. 131.

[456] It is termed as *ghamūs* because it first envelopes the person while he is performing the sin, and then he will be engulfed in the fire of Hell.

Expiation is the following:

1. Freeing a slave, or feeding ten poor people or clothing them.[457]
2. If he is unable to do this, then he fasts for three days.[458]

It is reported on the authority of Abd al-Raḥmān b. Samurah that the Prophet said,

> إِذَا حَلَفْتَ عَلَى يَمِينٍ فَرَأَيْتَ غَيْرَهَا خَيْرًا مِنْهَا فَكَفِّرْ عَنْ يَمِينِكَ، وَأْتِ الَّذِي هُوَ خَيْرٌ.
>
> "If you take an oath to do something and [later] see soemthing that is better than it, you should expiate your oath and do that which is better."[459]

In another *ḥadīth* the Prophet said,

> مَنْ حَلَفَ عَلَى يَمِينٍ، فَقَالَ: إِنْ شَاءَ اللهُ فَقَدِ اسْتَثْنَى، فَلَا حِنْثَ عَلَيْهِ.
>
> "Whoever takes an oath and says, 'If Allah wills,' then there is no breach on his part [if he does not fulfill it]."[460]

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[457] The Shaykh said in *al-Mukhtārāt al-Jaliyyah*, (pg. 124) that the sound view governing all the expiations is that it suffices to feed the poor. It is not necessary to pass the food to their personal possession, as this is clear from the Qur'an and the Sunnah.

The Shaykh also concluded that if a person swears to do a set of different actions in a single go—for example by saying, "By Allah, I shall not eat," or, "By Allah, I shall not drink"– he has to offer a similar number of expiations for the vows he has broken regardless if he expiates for one of them or does not. (Ibid., pg. 109)

Similarly, the Shaykh concluded that a man who commits something unknowingly or forgetfully after swearing that he would not so is not obligated to expiate for it. This is true in all things including divorce, freeing a slave, and other things.

[458] One has the option to offer expiation either before breaking the oath or after breaking it. See *Nūr al-Baṣā'ir*, pg. 59.

[459] Bukhārī, 13/123; Muslim, no. 1652.

[460] Aḥmad, 2/10; al-Dārimī, 5/182, Abu Dāwūd, no. 3261; Tirmidhī, no. 1531, who called it *hasan*; al-Nisā'ī, 7/25, ibn Mājah, no. 2105. The implication is here is that whoever adds the words *insha Allah* (If Allah wills) to an oath is not obligated to make expiation even if he fails to fulfill the oath. The scholars have said that there are three conditions which qualify this judgment:

1. The swearer has subjected the oath to Allah's will, because he did not say the words, "Allah willing" for mere blessings, nor was it a slip of tongue.
2. He adds the words, "Allah willing" immediately after the oath either expressly or implicitly
3. He utters the words, "Allah willing" verbally. He does not merely say them in his heart and mind.

See Shaykh al-Bassām, *Tawḍīḥ al-Aḥkām*, 6/87.

The components of an oath are the following:

1. the intention of the swearer,
2. the reason that provoked the oath, and
3. the utternace which indicates intention and purpose.

This applies except in cases of litigation, because the Prophet said,

> الْيَمِينُ عَلَى نِيَّةِ الْمُسْتَحْلِفِ
>
> "The oath is to interpreted according to the intention of the one who does it."[461]

[Vows]

Making a vow is disliked, knowing that the Prophet prohibited making it. He said,

> إِنَّهُ لَا يَأْتِي بِخَيْرٍ، وَإِنَّمَا يُسْتَخْرَجُ بِهِ مِنَ الْبَخِيلِ
>
> "No good comes from it, but it is a means of extracting something from a miserly person."[462]

If an individual makes a vow to do something righteous then he is obligated to fulfill it. This is due to the saying of the Prophet,

> مَنْ نَذَرَ أَنْ يُطِيعَ اللَّهَ فَلْيُطِعْهُ، وَمَنْ نَذَرَ أَنْ يَعْصِيَهُ فَلَا يَعْصِهِ.
>
> "Whoever vows to obey Allah, he should obey Him; whoever vows to disobey Allah, he should not disobey Him."[463]

If the vow is made about something permissible, or if it is made as an oath, but is made out of stubbornness or anger, or it is a vow that entails disobedience, then the [following occurs]:

a. It is not to be fulfilled.
b. It entails expiation for breach of an oath.[464]

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[461] Muslim, no. 1653.

[462] Bukhārī, 11/575, Muslim, no. 1639

[463] Bukhārī, 11/581; it is not found in Muslim.

[464] The Shaykh said elsewhere, "Another view ascribed to Imām Aḥmad is that vows are not binding when they entail performing an act that is *mubaḥ* (neutral), nor in acts

c. It is forbidden to fulfill that vow if it entails disobedience [to Allah].

that involve disobedience to Allah. This view corresponds to the view of the majority of the other scholars. It is sounder than the more well-known view of the Ḥanbalis, for there is no religious argument entailing that such a vow is binding. The authentic *ḥadith*, 'Whoever takes an oath to disobey Allah must not [fulfill it and] disobey Him,' also corroborates this. It is an established principle that a delayed clarification is not worth consideration. Another point is that *mubaḥ* oath is similar to an absurd oath." See *al-Mukhtārāt al-Jaliyyah*, pg 125.

Book of Felonies
(*Kitāb al-Jinayāh*)

Killing without right is divided into three categories:

1. Premeditated homicide, in which a person intentionally inflicts an injury upon another which was the most likely cause for the latter's death. In this case the guardian of the murdered is given the choice between *qiṣāṣ* (legal retribution) or *diyah* (blood money).[465] This is due to the Prophet's statement,

   مَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ : إِمَّا أَنْ يَقْتُلَ ، وَإِمَّا أَنْ يُفْدَى.

   "If a peron's relative is killed, he has the choice of two options: either the murderer can be killed, or he can request blood money."[466]

2. Quasi-deliberate homicide, in which a person intentionally inflicts an injury on another that mostly likely did not lead to his death.

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[465] The Shaykh has given preference to the view that the transgressor is to be inflicted with the same injury, as the Prophet crushed the head of the Jew who had crushed the head of a female servant between two stones. See *al-Mukhtarat al-Jaliyyah*, pg. 115.
[466] Bukhārī, 2/205; Muslim, no. 1355.

3. Involuntary manslaughter, in which the crime is unintentionally committed by the person, either directly or indirectly.

Concerning involuntary manslaughter, no legal retribution is paid; rather the following occurs:

a. Expiation from the wealth of the killer
b. Blood money is paid to the *'āqilah*, namely all his relatives, the near and the distant ones. The blood money is distributed to them in accordance to their status, and is distributed over a span of three years, a third being paid every year.

The blood money for murder, and other crimes, has been elaborated in detail from the *ḥadīth* of 'Amr b. Ḥazim in which the Prophet had dictated to the people of Yemen saying,

أَنَّ مَنْ اعْتَبَطَ مُؤْمِنًا قَتْلًا عَنْ بَيِّنَةٍ، فَإِنَّهُ قَوَدٌ إِلَّا أَنْ يَرْضَى أَوْلِيَاءُ الْمَقْتُولِ، وَأَنَّ فِي النَّفْسِ الدِّيَةَ مِائَةً مِنَ الْإِبِلِ، وَفِي الْأَنْفِ إِذَا أُوعِبَ جَدْعُهُ الدِّيَةُ وَفِي اللِّسَانِ الدِّيَةُ، وَفِي الشَّفَتَيْنِ الدِّيَةُ وَفِي الْبَيْضَتَيْنِ الدِّيَةُ، وَفِي الذَّكَرِ الدِّيَةُ وَفِي الصُّلْبِ الدِّيَةُ، وَفِي الْعَيْنَيْنِ الدِّيَةُ وَفِي الرِّجْلِ الْوَاحِدَةِ نِصْفُ الدِّيَةِ، وَفِي الْمَأْمُومَةِ ثُلُثُ الدِّيَةِ، وَفِي الْجَائِفَةِ ثُلُثُ الدِّيَةِ، وَفِي الْمُنَقِّلَةِ خَمْسَ عَشْرَةَ مِنَ الْإِبِلِ، وَفِي كُلِّ أُصْبُعٍ مِنْ أَصَابِعِ الْيَدِ وَالرِّجْلِ عَشْرٌ مِنَ الْإِبِلِ، وَفِي السِّنِّ خَمْسٌ مِنَ الْإِبِلِ، وَفِي الْمُوضِحَةِ خَمْسٌ مِنَ الْإِبِلِ، وَأَنَّ الرَّجُلَ يُقْتَلُ بِالْمَرْأَةِ وَعَلَى أَهْلِ الذَّهَبِ أَلْفُ دِينَارٍ.

"Whoever wrongfully kills a believer and his crime has been legally proven, for him will be legal retribution equal to his crime, except in the case where the relatives of the murdered agree [to the blood money, in which case it will be the following:]

- For murder, the blood money is one hundred camels,
- For a nose, which has been completely severed, there is blood money [of a hundred camels].
- For the tongue, the two lips, the penis, the testicles, the backbone (*ṣulb*),[467] and the eyes there is blood money [of a

[467] *Al-Ṣulb* refers to a person's back being broken, which forces him to move on his belly, then the *diyah* is to be imposed. According to another opinion it also refers to a man being struck by something on his back which renders him unable to have sexual relations.

The Shaykh said that every faculty, like hearing, sight, smell, taste, touch, the power

hundred camels].
- For a foot, the blood money is half.
- For a cranial injury (*ma'mūmah*)[468] or an injury that reaches the stomach (*jā'ifah*),[469] the blood money is a third.
- For an injury to a bone (*munaqqilah*),[470] the blood money is fifteen camels.
- For each finger and toe, the blood money is ten camels.
- For the teeth, it is five camels.
- For an injury due to which a bone is exposed (*mūḍihah*),[471] the blood money is five camels.
- A man shall be executed for killing a woman.
- For those who can pay the blood money only in gold, then it shall be one thousand dinārs. "[472]

The conditions for *qiṣāṣ* (legal retribution) to be established are the following:

1. The murderer be a *mukallaf*[473].

to eat, walking, [sexual relation in] marriage, and others thing are all subject to the payment of a complete *diyah*. If any of these are lost, the *diyah* is enforced on the perpetrator. Even if more than one of the faculties are lost, the criminal is subject to payment of a complete *diyah* for each one of them. See *Nūr al-Baṣā'ir*, pg. 56.

[468] *Ma'mūmah* is an injury that breaks apart the skin on the head and reaches the cranium.

[469] *Jā'ifah* is an injury that penetrates to the inside of the abdomen and other similar body parts.

[470] *Munaqqilah* is a head injury that fractures the skull bone and moves the bones from their proper place.

[471] *Muḍihah* is an injury to the skull that exposes the bone but does not break it. Thus injury is exclusively related to the skull and jaw.

[472] Abū Dāwūd in *al-Marasīl* pg. 255, and he said that it's chain is not *ṣaḥīḥ*; al-Nisā'ī in *al-Kubra* 4/245, al-Ḥakīm, 1/395; al-Bayhaqī, 4/89; al-Dārmī, 2/247, ibn Ḥabbān, 14/501. The scholars have differed over the soundness of this tradition. A party has declared it unsound while others considered it sound. Ibn 'Abd al-Barr says in *al-Tamhid* (17/338), "This is a famous letter related by the biographers of the Prophet and is well known among the people of knowledge. It is too famous to require a chain of narrators (*isnād*) It is more like a *mutawātir* report for the people have welcomed it with acceptance." Al-'Uqaylī says, "This is a sound (*thabit*) *ḥadīth*." Ibn Ḥajar in his *al-Talkhiṣ* said, "A group of scholars have declared this *ḥadīth* as *ṣaḥīḥ* not from the angle of its *isnad* but due to its universality (*al-shuhrah*)." Ibn Kathīr says in *Tuḥfah al-Ṭālib* (pg. 231), "The Imāms and authors have relied on this letter of Āl 'Amr b. Ḥazam in their books. It is a manuscript that is like their inheritance. It is just like the manuscript of 'Amr b. Shu'ayb which he narrates from his father who narrates from his father." Another similar thing is the statement of al-Zayla'ī as recorded in *Naṣb al-Rāyah* (2/342). For additional information see *Ṣaḥā'if al-Ṣaḥābah* by al-Thawbān pgs. 92-132.

[473] A person who meets the conditions to be held legally responsible for his actions.

2. The murdered is someone whose blood cannot be spilled, and that he be equal to the killer in [his embracement of] Islam, and slavery or freedom. Therefore, a Muslim cannot be executed for killing a non-Muslim, and neither is a free person executed for killing a slave.
3. The murderer is not the parent of the murdered, since parents are not executed for killing their child.
4. The guardians, who are of the age of accountability, are in agreement [for retribution].
5. There is no fear of transgression in seeking *qiṣāṣ*.

A group of people can be executed for the death of one person. Also, retribution for an injury caused to each limb is achieved through inflicting an injury to a similar limb, as proportionately as possible, without transgression.[474] This is due to Allah's statement,

﴿ وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنفَ بِالْأَنفِ وَالْأُذُنَ
بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ ۚ فَمَن تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَّهُ ۚ وَمَن لَّمْ
يَحْكُم بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ ﴿٤٥﴾ ﴾

"We ordained for them in it[475] a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and for the wounds is a legal retribution. But if anyone forgoes it out of charity, it will serve as his atonement [for sins]. Those who do not judge by what Allah has revealed are the wrongdoers." (Q, 5:45)

Additionally, the blood money for a free woman is half that of a free man. However, the injures caused to her are equal [in retribution] to the injures caused to him, until it reaches one third of the blood money.

[474] The Shaykh said elsewhere, "The case of injuring a bodily organ is judged under the same rule as taking a life. This is true in cases that warrant retribution in willful killing and transgression, otherwise the retribution is not necessary However, in cases where the application of law for retribution occurs, there are some conditions such as equality and evenness in the place and part of the body. The same rule is applicable to injuries that entail a legal punishment (*hadd*) where *qisas* is the rule due to the possibility of equality. In cases where there is no such possibility, then there is no *qiṣaṣ*." See *Nūr al-Baṣā'ir*, pg. 55.

[475] Referring to the Torah

Book of Legal Punishment (*Kitāb al-Ḥudūd*)

Ḥudūd can only be exacted on the one who is a *mukallaf* and is aware of the prohibition [of the action performed]. It is applied by the ruler or his deputy, with the exception of a master who can apply it, especially flogging, on his slave. However, the punishment of flogging on a slave is half that of a free person.

[Ordained Punishment for Illegal Sexual Intercourse (*Zinā*)]

The punishment for fornication, whether it is vaginal or anal, is the following:

1. If the fornicator is married, and both persons involved are free and *mukallaf*, then such a person is stoned to death.
2. If the fornicator is unmarried, then such a person is flogged a hundred times and banished from his homeland for a year.

However, the punishment is only applied on the condition that the fornicator confesses four times to the crime or four just witnesses give testimony that they saw such person performing the act.[475] Allah says,

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[475] The Shaykh stated that it is not a condition for a valid conviction that all four witnesses

﴿ ٱلزَّانِيَةُ وَٱلزَّانِي فَٱجْلِدُوا۟ كُلَّ وَٰحِدٍ مِّنْهُمَا مِا۟ئَةَ جَلْدَةٍ ﴾

"The fornicating man and the fornicating woman, flog each one of them with a hundred lashes." (Q, 24:2)

It is also related on the authority of 'Ubādah b. al-Ṣāmit, in a *marfū'* *ḥadīth*, that the Messenger of Allah said,

خُذُوا عَنِّي، خُذُوا عَنِّي، قَدْ جَعَلَ اللهُ لَهُنَّ سَبِيلًا، الْبِكْرُ بِالْبِكْرِ جَلْدُ مِائَةٍ وَنَفْيُ سَنَةٍ، وَالثَّيِّبُ بِالثَّيِّبِ جَلْدُ مِائَةٍ، وَالرَّجْمُ.

"Take from me, take from me. Allah has made for them a way: [the punishment for illegal intercourse of] a virgin with a virgin is one hundred lashes and banishment for a year. As for the one who is married then it is one hundred lashes and stoning [to death]."[476]

Here, the two commandments are eventually confined to stoning the *muḥṣan* (married person) as was the case of Mā'iz and the Ghāmidī woman.[477]

[Ordained Punishment for *Qadhf*]

Whoever accuses a *muḥṣan* of adultery or bears witness that such a person has committed the act, but the testimony is not fully established [because there are less than four witnesses], then the slanderer is to be flogged eighty lashes.[478] Alternatively, the punishment for the one who falsely accuses an unmarried person of fornication is *ta'zīr* (disciplinary punishment decided by a judge). Here, the *muḥṣan* is a free, sane, and chaste person. Besides, *ta'zīr* is obligatory for every sin in which there

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of an incident of adultery/fornication appear before the court to testify together in the same meeting. Even if they come separately and in different sessions of the hearing, their testimony is not rejected. Similarly, their testimony is not rejected if two of them testify that they saw him committing adultery/fornication with her on one particular day or house and the other two testify that they saw them committing the act in a different house or day. See *al-Mukhtarāt al-Jaliyyah* pg. 118.

[476] Muslim, no. 1690.

[477] Meaning, the two punishments of stoning and flogging cannot be combined together as is clear in the *ḥadīth* reported by 'Ubādah b. al-Ṣāmit.

[478] The Shaykh said elsewhere, "The punishment for falsely accusing a virtuous woman is the right of Allah, and cannot be dropped even if the accused forgives the accuser." See *al-Mukhtārāt al-Jaliyyah* pg. 119.

is no known legal punishment (*ḥadd*) or expiation (*kaffarah*).[479]

[Ordained Punishment for Theft]

Whoever steals a quarter of a dinar of gold or something equivalent to it [in value] from a secure location (*ḥirz*), then his right hand is amputated from the wrist. If he commits theft again, then his left foot is amputated from the ankle. If he once again steals, then he is imprisoned, as only a hand and a foot can amputated. Allah says,

﴿ وَٱلسَّارِقُ وَٱلسَّارِقَةُ فَٱقْطَعُوٓا۟ أَيْدِيَهُمَا ﴾

"Cut off the hands of the thieves, male or female." (Q. 5:38)

On the authority of 'Ā'ishah who related, in a *marfū'* *ḥadīth*, that the Prophet said,

لَا تُقْطَعُ يَدُ سَارِقٍ إِلَّا فِي رُبُعِ دِينَارٍ فَصَاعِدًا.

"The hand of a theif is not amputated except for that which equals a quarter of a dinār or above."[480]

It is also related in another *ḥadīth*,

لَا قَطْعَ فِي ثَمَرٍ، وَلَا كَثَرٍ.

"The hand is not to be amputated for fruit or the pith of a palm-tree."[481]

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[479] The Shaykh said elsewhere, "A maximum of ten lashes can be awarded to the criminal over and above the prescribed punishment. The Prophetic saying, "No one can be lashed with more than ten lashes, except in the punishments prescribed by the Almighty," means that no one can be treated in this manner except in any sinful crime. This maximum limit is observed in case of punishing a youngster, a wife, a slave, or others like them for a bad behavior that is not considered a crime under the divine law." See *al-Mukhtarāt al-Jaliyyah* pg. 119.

[480] Bukhārī, 12/86; Muslim, no. 1684.

[481] Malik in *al-Muwaṭṭā*, no. 32; Aḥmad, 3/463; ad-Dārmī, 2/174; Abu Dāwūd, no. 4388, Tirmidhī, no. 1449; an-Nisā'ī, 8/87; ibn Mājah, no. 2593, al-Bayhaqī, 8/263. Ḥāfiẓ ibn Ḥajar says in *al-Talkhīṣ* (4/73) that al-Ṭaḥāwī said, "The text of this *ḥadīth* has been accepted as authentic by the scholars."

Thamar refers to the dates that are still on the date palm trees before they are plucked. *Kathar* refers to the date pits. They reason why the hands of the thief are not amputated for their theft is that one of the conditions for the implementation of the punishment of amputation is that the stolen item be held in a safe location, while both *thamar* and *kathar* are not guarded. According to the three Imāms the thief is forced to pay their price. Imām Aḥmad however says that he is to pay double the price, basing

[Ordained Punishment for Ḥirābah (Banditry)]

Concerning bandits, Allah says,

﴿إِنَّمَا جَزَٰٓؤُاْ ٱلَّذِينَ يُحَارِبُونَ ٱللَّهَ وَرَسُولَهُۥ وَيَسۡعَوۡنَ فِي ٱلۡأَرۡضِ فَسَادًا أَن يُقَتَّلُوٓاْ أَوۡ يُصَلَّبُوٓاْ أَوۡ تُقَطَّعَ أَيۡدِيهِمۡ وَأَرۡجُلُهُم مِّنۡ خِلَٰفٍ أَوۡ يُنفَوۡاْ مِنَ ٱلۡأَرۡضِۚ﴾

"The recompense for those who wage war against Allah and His Messenger, and endeavor to spread corruption in the land is that they should be killed, crucified, amputation of alternate hands and feet, or be exile from the land." (Q. 5:33)

Bandits are those who attack travelers on the roads, stealing their money or killing them. [Their punishment is the following:]

1. Whoever kills and takes the people's money, then he is executed and crucified.
2. Whoever kills, then he is only executed.
3. Whoever takes the people's money, then his right hand and left foot is amputated.
4. Whoever only frightens the people, then he is exiled from the land.[482]

[Rebels]

Those who revolt against the ruler, intending to depose him of his title are considered rebels (*ahl al-baghy*). The ruler should open a dialogue with them and try to eliminate their grudges, of things that are not permissible, and to refute their arguments. Then, if they end their revolt, the ruler should refrain from fighting them, except those who murdered people. The subjects should aid the ruler in fighting against the rebels. If the population are compelled to the bandits or damage their property, then nothing is due on them. However, if they are killed

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his view on the *hadith* of Rāfi' b. Khadij for the difference in opinion in the school. As for the question whether the doubling of the actual price is exclusively meant for the above mentioned two items or is generally applicable to everything that is stolen while not being guarded, the Shaykh preferred the view that it is generally applicable to all such items. See *al-Mukhtārāt al-Jalliyyah*, pg. 120.

[482] The Shaykh has related elsewhere, "When the highway robber commits a crime that calls for *qiṣāṣ*, but is less than murder, then the requirements of the law of retribution are fulfilled." See *al-Mukhtārāt al-Jalliyyah*, pg. 120.

[by the bandits], then they shall be considered as *shahid* (martyers). The fleeing rebel is not pursued, the wounded from them is not killed, their wealth is not taken as booty, and their families are not taken as captives. However, no guarantee is due on either of the fighting parties for what is wasted during war, of lives or properties.

-Chapter-
Rules Concerning the Apostate (*Murtadd*)

The apostate is the one who abandons Islam for disbelief, which can occur through action, speech, or doubts. The scholars, may Allah have mercy on them, have mentioned in detail that which causes a person to leave Islam, knowing that they are all traced back to denying that which the Messenger of Allah came with, in totality or in part. Whoever apostatizes should be asked to repent over three days, after which he either [repents and] returns to Islam or is killed by the sword.

-Chapter-
Judicial Rulings, Legal Proceedings, Supporting Evidences, and Types of Testimonies

Judicial rulings are indespensible for people, and therefore it is a collective obligation upon all the Muslims. The ruler is bound to instate [as a judge] a person who has the ability to carry out the required tasks, from among those who are knowledgable about adjudication and legal rulings, and their implications upon the people. Therefore, a ruler should instate the person who is most fit for the job in terms of the needed attributes of a judge. This is because the one who is competent to assume such a role is bound to carry it out [properly], even if there is no other competent person to fill the post or if such a post keeps him from doing something else that is more important. In this regard, the Prophet said,

الْبَيِّنَةُ عَلَى الْمُدَّعِي ، وَالْيَمِينُ عَلَى مَنْ أَنْكَرَ.

> "The onus of proof is upon the plaintiff, and the taking of an oath is upon the defendant."[483]

إِنَّمَا أَقْضِي بِنَحْوِ مَا أَسْمَعُ.

> "I decide [a case] based on what I hear."[484]

Therefore, whoever claims a right to a property, or anything similar, is required to present proof for it in the following form:

a. Two just male witnesses,
b. one male and two females,[485] or

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[483] Tirmidhī, no. 1341; Tirmidhi recorded this tradition on the authority of 'Abdullah b. 'Amr. The *isnad* of the tradition is weak as clarified by Ḥāfiẓ ibn Ḥajar in *al-Takhlīṣ*. Al-Bayhaqī has also narrated this on the authority of ibn 'Abbās. Imam al-Nawawī declared the *isnād* as *ḥasan* in his *al-Arba'īn* as well as by al-Ḥafiẓ in *al-Fatḥ*. The *ḥadīth* whose authenticity is agreed upon is the following, "However, the oath is upon the defense." It has been recorded by Bukhārī, 8/213, Muslim, no. 1711.

[484] Bukhārī, 13/157; Muslim, no. 1713. The Shaykh said, "One cannot decide to have certain knowledge except in the matters where either of the contestants confesses, or the issue becomes clear during the case for judgment." See *Nūr al-Baṣā'ir*, pg. 61.

[485] The Shaykh said elsewhere, "A great number of the pious predecessors have preferred the view that the testimony of two women equals that of a single man in every matter,

c one male accompanied with an oath from the plaintiff.

This is established from the words of Allah,

﴿وَٱسْتَشْهِدُوا۟ شَهِيدَيْنِ مِن رِّجَالِكُمْ ۖ فَإِن لَّمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَٱمْرَأَتَانِ مِمَّن تَرْضَوْنَ مِنَ ٱلشُّهَدَآءِ﴾

"Call in two of your men as witnesses, but if two men are not available, then a man and two women, whom you agree as witnesses." (Q. 2:282)

It is also reported in an authentic *ḥadīth* that the Prophet passed judgment on the basis of a testimony of a witness and a sworn oath.[486] However, if the plaintiff has no supporting evidence for his claim, the defendant is required to take an oath for his innocence, in which case he will be judged to be innocent. If the defendant refrains from taking an oath, then he is judged as having denied to take an oath, and so the request for an oath is turned to the plaintiff. If the plaintiff swears an oath, after the refusal of the defendant, then the plaintiff is entitled to that which he claimed.

As for the types of evidences, which would indicate the truthfulness of either of the two litigants, it includes the following cases:

a. If the claimed object is in the possession of either of the two litigants, then it belongs to one in whose possession it is.
b. If two engage in legal proceedings for the possession of a property, which can only belong to one of them, such as in the following cases: A carpenter or someone similar to him claiming a woodworking tool, or a blacksmith or someone similar to him claiming a blacksmithing tool, and so forth.

Alternatively, bearing witness about a person's right is a collective obligation, while giving testimony is an individual obligation. It is a prerequisite for the witness to be just on both a private and public level, knowing that the just person is the one whose testimony is acknowledged by the people. Allah says,

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in reality, even in the cases of *qiṣaṣ*, marriage, divorce, lineage, and legal punishment, etc. However, this view requires evidence and rationale." See *al-Mukhtārāt al-Jaliyyah* pg. 127.

[486] Muslim, no. 1712.

﴿مِمَّن تَرْضَوْنَ مِنَ الشُّهَدَآءِ﴾
"Whom you agree as witnesses." (Q. 2.282)

Also, it is not permissible for a person to bear witness for something other than that which he has knowledge of through either of the following ways:

a. Physical observation,
b. hearing from the one against whom he is giving witness, or
c. common circularity of a report on something where such circularity is required, such as in cases of lineage and the like.

The Prophet said to a man,

«هَلْ تَرَى الشَّمْسَ؟» قَالَ: نَعَمْ، قَالَ: «فَعَلَى مِثْلِهَا فَاشْهَدْ، أَوْ دَعْ».
"Do you see the sun?" He said, "Yes," so the Prophet said, "Then testify in a case just as clear as you see the sun; otherwise, [if you are uncertain] then do not testify."[487]

As for the things which prevent testimony, they include suspicion of untruthfulness due to a plausible reason, such as:

1. The case of a parent giving testimony in favor of a child, and vice versa.
2. The case of a spouse giving testimony in favor of the other.
3. The case of a person giving testimony against his enemy.[488]

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[487] Ibn 'Adī has recorded this *hadīth* in *al-Kāmil*, 2/361; al-'Uqaylī in *al-Ḍu'afā'*, no. 380; al-Ḥākim in *al-Mustadrak*, 4/98, who declared it *ṣaḥīḥ*. However, al-Dhahabī rejected it by saying, "I believe it is very weak." Concerning 'Amr b. Mālik al-Baṣarī, ibn 'Adī says, "He would steal *ḥadīth*." Ibn Masmūl has been declared unreliable by more than one authority. Bayhaqī has recorded it (10/156) and commented: "Al-Ḥumaydī has criticized ibn Masmūl. The *ḥadīth* has never been reported through any reliable chain." Al-Ḥāfiẓ said in *al-Talkhīṣ* (4/281), "The *isnād* includes Muḥammad b. Sulaymān b. Masmūl who is weak." He says in *Balugh al-Marām*, "The *ḥadīth* has been recorded with a weak chain of narrators. Al Ḥākim has declared it sound but he is mistaken."

[488] The Shaykh noted his preference in *al-Mukhtārāt al-Jalliyyah* (pg. 127) with the following words, "When the reliability of one or two of the mentioned persons is ascertained, externally and internally, their testimony may not be rejected due to these factors. The fact that their evidence is acceptable is established through certain knowledge. It cannot be overrun by mere accusation leveled against the witnesses which is at best a probability; rather, it is not reliable when leveled at people of this stature. On the contrary, if their external and internal reliability is not established, but they are reliable

It is reported in a *ḥadith* that,

لَا تَجُوزُ شَهَادَةُ خَائِنٍ، وَلَا خَائِنَةٍ، وَلَا ذِي غِمْرٍ عَلَى أَخِيهِ، وَلَا تَجُوزُ شهادةُ الْقانع لِأَهْلِ الْبَيْتِ.

"The testimony of a faithless man and a faithless woman, the carrier of enmity (*ghamar*)[489] against his brother, and the servant (*qāni'*)[490] in favor of a household [which he serves] is not allowed."[491]

It is also reported in another *ḥadith* that,

مَنْ حلفَ عَلَى يَمِينٍ يقْتطعُ بهَا مَالَ امْرِئٍ مُسْلِمٍ، هُو علَيْها فاجِرٌ، لقِيَ اللهَ وهُوَ عَلَيْهِ غَضْبَانُ.

"He who takes an oath in order to entitle himself [to the possession] of a property, whereas he is a liar, would meet Allah in a state that He would be very angry with him."[492]

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only apparently then their testimony may be rejected if the factors against it are strong. Different people enjoy different levels of reliability. They are all not the same."

[489] *Ghamar* refers to malice and venom.

[490] *Qani'* refers to a servant who is exclusively devoted to the service of his masters and fulfilling their needs, due to the authority they have over him and the benefits he draws from them. Therefore, the blame [for his wrongs] extends to them.

[491] Aḥmad, 2/181, Abu Dāwūd, no. 3600, 3601, ibn Mājah, no. 2366.

[492] Bukharī, 11/558; Muslim, no. 138.

-Chapter-
Division (*Qismah*)

Division is of two types:

1. Forcible division, which refers to that which can be divided with no harm or compensatory restitution [to either party], as is the case with similar objects, spacious dwellings, and large properties.
2. Mutual division, which refers to distribution of that which involves harm, as one of the partners does not benefit from his share, or that in which [shares] cannot be amended except through compensatory restitution from one of them, and therefore must involve the consent of all the partners. If one of the partners demands that the object be sold, then it is obligatory that his demand be fulfilled. However, if the partners rent out [the property], then the rent is distributed among the partners according to his share, and Allah knows best.

-Chapter-
Acknowledgement (Iqrār)

Iqrār means that a person acknowledges all the rights that are due upon him, through any utterance that indicates acknowledgement, on the condition that the one acknowledging is a *mukallaf*. It is thus one of the most substantial proofs. It covers all the fields of knowledge, such as worship, transactions, marriage contracts, crimes, etc. It is related in a *ḥadīth*, "There is no excuse for the one who acknowledges [a right on himself]."[493]

It is obligatory on an individual to acknowledge all the rights that are due from him to other people so that he is absolved either through settlement or the owners forgoing it. It is only Allah who knows best.

May the peace and blessings of Allah be upon our noble Prophet Muhammad, and upon his family and Companions.

Written by the one who is in need of his Lord's forgiveness, who implores his Lord to grant him wellbeing in both his religious and worldly affairs, Abd ar-Raḥmān b. Nāṣir b. Sa'dī, may Allah have mercy on him and forgive him, his parents, and all the Muslims.

[493] Al-Sakāwī says in *al-Maqāṣid al-Ḥasanah* (pg. 1311): "Our teacher (Ibn Ḥajar) said, 'The tradition is baseless. The meaning is also not sound when considered without qualification.'"

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The Path of the Wayfarer
(Minhaj al-Sālikīn)

Our Shaykh, may Allah be merciful on him, authored this short but beneficial work. In it he offers a single view of the School on an issue, regardless of the fact that it is in accordance with the famous view of the Hanbalis or that of another School. The expressed views do not stray from the views of one of the other three Schools of Thought. This summarized work has the following important distinctions: 1) Ease of text and clarity. 2) It is based on the Qur'an and the sound hadiths...3) The author has chosen views that are the soundest and can be found in any or all the three other Schools. 4) The author confined himself to the most important issues and rulings... 5) The author wrote this book for the beginner [student].

-Shaykh 'Abdullāh b. 'Abd al-Raḥmān al-Bassam
Member of the Council of Senior Scholars (KSA)

Our teacher, 'Abd al-Raḥman b. Nasir al-Sa'di was one to whom Allah granted understanding of the religion so much so that learning, teaching, and writing about the religion occupied the majority of his time. His work, Minhaj al-Sālikīn (Path of the Wayfarer) is the most important of all his works on Islamic Jurisprudence. Though the book is brief in words, it comprehensively covers all the major themes.

-Shaykh 'Abdullāh b. 'Abd al-Aziz b. 'Aqil
Former President of the Permanent Commission of the Supreme Judicial Council (KSA)

Shaykh 'Abd al-Raḥmān b. Nasir al-Sa'dī was one of the most prominent scholars from the Arabian Peninsula. He was born in the city of 'Unayzah, Kingdom of Saudi Arabia, in the year 1307 AH/1885 CE. Al-Sa'di began studying Islam at an early age. He excelled in his studies to such an extent that his fellow students would ask him to tutor them. He studied various Islamic Sciences from some of the leading scholars of that area, as well as some famous visiting scholars. He authored many words which are in print today, including the current one. Shaykh al-Sa'di passed away in the year 1376 AH/1956 CE at the age of 69, and was buried in the city of 'Unayzah, KSA.

